



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 16TH DAY OF FEBRUARY 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

O.P. No.839 of 1997

M/s State Industries Promotion
Corporation of Tamilnadu Ltd.,
represented by the Managing Director
having its registered office at No.19-A,
Rukmani Lakshmipathy Road(Marshalls Road),
Egmore, Chennai 600 008,
Tamilnadu.

... Petitioner

Versus

1.M/s Marican Limited,
having its registered office at
No.12 Malavia Avenue,
Thiruvanmiyur, Chennai 600 041.

2.S.Subramanian,
S/o V.R.S.Sarmah,
residing at No.12, Malavia Avenue,
Thiruvanmiyur, Chennai 600 0041.

3.S.V.Raghavan,
S/o V.R.S.Sarmah,
residing at No.30, Bavana Chetty Street,
Walajahpet -682513.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to:

a) determine and enforce the liability of the respondents two and three by directing respondents two and three to pay jointly and severally the sum of Rs.52,64,376.60 together with interest at 20.5% p.a. on Rs.52,64,376.60 from 1.6.97 till date of payment and in default to proceed against their assets.

b. pay the costs of the petition.

This Original Petition coming on this day before this court for hearing in the presence of Mrs.Sudharsana Sundar, Advocate for the petitioner herein and Mr.S.Prasath for M/s Sarvabhuman Associates, Advocates for the 2nd respondent herein, and upon reading the petition filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and this court finds that the petitioner has established its entitlement to receive the claim as prayed for, it is ordered as follows:-

That the respondents 2 and 3 herein, be and are hereby directed to pay a sum of Rs.3,15,33,711.98/- (Rupees Three Crore Fifteen Lakhs Thirty Three Thousand Seven Hundred and Eleven and Paise Ninety Eight only) with further interest at the rate of 20.5% per annum on the sum of Rs.52,64,376.60/- (Rupees Fifty Two Lakhs Sixty Four Thousand Three Hundred and Seventy



Six and Paise Sixty only) from this date till the date of realization.

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2. That the Respondent herein do pay to the petitioner herein, the costs of this petition, as and when taxed by the taxing officer of this court, and noted in the margin thereof.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 16th DAY OF FEBRUARY 2022.

Sd/-
ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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13.04.2022

O.P. No.839 of 1997

ORDER:-

DATED: 16.02.2022

THE HON'BLE MR. JUSTICE

P.VELMURUGAN

FOR APPROVAL: 18.04.2022

APPROVED ON : 21.04.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2022

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

O.P.No.839 of 1997

M/s.State Industries Promotion
Corporation of Tamil Nadu Ltd.,
represented by the Managing Director

... Petitioner

vs.

1.M/s.Marican Limited
2.S.Subramanian
3.S.V.Raghavan

... Respondents

Original Petition filed under Section 31(1)(aa) of the State Financial
Corporation Act, 1951, praying to

a) determine and enforce the liability of the respondents two and three
by directing the respondents two and three to pay jointly and severally the
sum of Rs.52,64,376.60 together with interest at 20.5% p.a. on
Rs.52,64,376.60/- from 1.6.97 till date of payment and in default to proceed
against their assests;

b) pay the costs of the petition;

c) pass such further orders as this Hon'ble Court may deem fit under



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For Petitioner : Mrs.Sudharsana Sundar
For Respondents : M/s.Sarvabhauman Associates
for R2
Proof of Publication filed
on R1 and R3

ORDER

This petition has been filed for recovery of money advanced by the petitioner to the first respondent.

2.The petitioner is the State Industries Promotion Corporation of Tamil Nadu Limited, the first respondent is the borrower and the respondents 2 and 3 are the guarantors.

3.The first respondent approached the petitioner for financial assistance and borrowed a sum of Rs.28.41 lakhs. To secure the debt, the first respondent created an equitable mortgage over fixed assets of the Company and executed the following documents :

Sl.No	Loan amount	Nature of security documents	Personal Guarantors
1.	1 st Term loan Rs.5.00 lakhs	Equitable Mortgages dt.29.1.1981 for Rs.4.00 lakhs Registered Mortgage dt.29.1.81 for Rs.1.00 lakh Hypothecation deed dt.29.1.1981	S.Subramanian S.V.Raghavan



Sl.No	Loan amount	Nature of security documents	Personal Guarantors
2.	2 nd Term Loan Rs.5.00 lakhs	Equitable Mortgage dt. 20.1.1982 Rs.5.00 lakhs Deed of undertaking dt.20.1.1982 Hypothecation deed dt.20.1.1982	S.Subramanian S.V.Raghavan
3.	Interest Free Sales Tax Loan	Equitable Mortgage dt.20.1.1982 for Rs.11.04 lakhs Hypothecation deed dt.20.1.82 Deed of undertaking dt.20.1.82	S.Subramanian S.V.Raghavan
4.	Central Investment subsidy	Deed of Agreement dt.19\8.3.80	S.Subramanian S.V.Raghavan
5.	Addl.Central Investment Subsidy	Deed of Agreement dt.23.6.81	S.Subramanian S.V.Raghavan

As the first respondent did not repay the loan amount despite a legal notice issued on them dated 23.03.1990, in order to protect its interest by exercising of the right under Section 29 of the State Financial Corporation Act and took entire possession of the mortgaged assets and obtained



to pay a sum of Rs.52,64,376.60/- towards the principal and interest of the loan amount. Hence, the petitioner is entitled to recover the balance due from the respondents 2 and 3, who are the guarantors of the said transaction and therefore, the present petition has been laid.

4.Heard the learned counsel for the petitioner and perused the materials available on record. The second respondent entered appearance and also filed a counter affidavit.

5.The Assistant Manager of the petitioner Company, who was examined as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Ex.P1 to Ex.P22 :

- Ex.P1 is the Original Sanction Letter of the first Term loan dated 17.08.1979.
- Ex.P2 is the Original Deed of hypothecation dated 29.1.1981.
- Ex.P3 is the Original Deed of Undertaking dated 29.1.1981.
- Ex.P4 is the Original Deed of personal guarantee dated 29.1.1981.
- Ex.P5 is the Original Registered Deed of Mortgage dated 29.01.1981.
- Ex.P6 is the Original Sanction Letter of second term loan



dated 13.1.1981.

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- Ex.P7 is the Original Deed of Hypothecation dated 20.1.1982.
- Ex.P8 is the Original Deed of Undertaking dated 20.1.1982.
- Ex.P9 is the Original Deed of Personal guarantee dated 20.1.1982.
- Ex.P10 is the Original sanction letter of IFST loan dated 16.11.1981
- Ex.P11 is the Original Deed of Hypothecation dated 20.1.1982
- Ex.P12 is the Original Deed of Undertaking dated 20.1.1982.
- Ex.P13 is the Original Deed of Personal guarantee dated 20.1.1982.
- Ex.P14 is the Original Deed of Agreement dated 20.1.1982.
- Ex.P15 is the Original sanction letter of Subsidy dated 18.2.1980.
- Ex.P16 is the Original Deed of Agreement dated 18.3.1980.
- Ex.P17 is the Original Deed of personal guarantee dated 18.3.1980
- Ex.P18 is the Original sanction letter of Additional Subsidy dated 19.4.1981.



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- Ex.P19 is the Original Deed of agreement dated 23.6.1981.
- Ex.P20 is the Original Deed of Personal guarantee dated 23.6.1981.
- Ex.P21 is the Foreclosure notice dated 23.3.1990
- Ex.P22 is the Statement of Accounts.

6.Before the learned Master, P.W.1-Assistant Manager of the petitioner Company was cross examined by the learned counsel for the second respondent and there is no evidence on the side of the respondents.

7.A perusal of the affidavit and the documents filed by P.W.1, this Court finds that the petitioner has established its entitlement to receive the claim as prayed for.

8. The Original Petition is allowed with cost and the respondents 2 and 3 are directed to pay a sum of Rs.52,64,376.60/- together with interest at the rate of 20.5% per annum from the date of filing of the petition.

Sd./-P.V.J.
16.02.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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