OP No.732 of 2011

P.VELMURUGAN, J.

This Original petition has been filed by the Tamilnadu Industrial Investment Corporation Limited under section 31(a), 31(aa) and 32 of the State Financial Corporation Act for recovery of money from the respondents.

2. The petitioner Corporation sanctioned a term loan of Rs.49,00,000/- on 28.06.1995 towards purchase and erection of equipments to the respondents and the said loan has to be repaid in 84 monthly instalments with interest at 18% per annum. The first respondent hypothecated the equipments by the Deed of Hypothecation on 08.11.1995 for a sum of Rs.49,00,000/- and the second respondent has offered her property situated at Kottivakkam Village, Saidapet Taluk and mortgaged the same on 08.11.1995 for the loan amount of Rs.49,00,000/- and deposited all the title deeds with the petitioner Corporation. The respondents 1 and 2 executed a Deed of Guarantee and indemnity on 08.11.1995 for the loan to be disbursed in favour of the first respondent. As the first respondent committed default in repayment, the petitioner Corporation took possession of equipment on 03.12.1997 and sold the

same in public auction on 12.07.2006 for a sum of Rs.3,500/-. Thereafter, the petitioner Corporation found that the security given by the second respondent is a bogus one and hence, the Corporation lodged a criminal complaint on 07.01.1998. Hence, the respondents are liable to pay the balance principal of Rs.43,00,267/-, interest of Rs.9,72,58,671/- and other dues of Rs.1,56,252/- totalling a sum of Rs.10,17,15,190/- as on 31.07.2011. The petitioner Corporation sent a notice to the respondents on 10.10.2011.

3. Before the learned Master, P.A.Khaja Mohideen, the Junior Officer of the petitioner Corporation who is the authorized person was examined as PW1 and in his proof affidavit, he reiterates the contents of the petition filed in support of O.P.No.732 of 2011. Though several opportunities granted to the respondents, they were not present and give their evidence, before the learned Master. The following documents were marked as Exhibits on the side of the petitioner Corporation:

Exhibits	***Nature of the documents***
P1	Photocopy of the Terms and conditions of Sanction Order.
P2	Photocopy of the Guarantee Deed dated 08.11.1995
P3	Photocopy of the Hypothecation Deed dated 08.11.1995
P4	Photocopy of the Letter confirming the deposit of title deed

Exhibits	Nature of the documents
	dated 09.11.1995
P5	Photocopy of the Paper Advertisement
P6	Photocopy of the Auction Notice
P7	Office copy of the Criminal Complaint
P8	Notice to the respondents
P9	Original Returned Postal covers – nos
P10	Certified copy of the Account sheets
P11	Original Authorization Letter dated 02.12.2021

4. Though the name of the respondents are printed in the cause list, there is no representation on the side of the respondent and hence, they are set exparte by this Court.

5. This Court has perused and examined the aforementioned documents.

6. The terms and conditions of the loan sanction order has been marked as Ex.P1. The copy of the Guarantee Deed dated 08.11.1995 executed by the respondents in favour of the petitioner Corporation has been marked as Ex.P2. The Deed of Hypothecation dated 08.11.1995 executed by the first respondent in favour of the petitioner Corporation

has been marked as Ex.P3. The copy of the letter dated 09.11.1995 confirming the deposit of title deed by the second respondent to secure the loan obtained by the respondents has been marked as Ex.P4. The copy of the paper Advertisement calling offers for the purchase of equipments belonging to the first respondent's company in the public auction was marked as Ex.P5. The copy of the auction notice dated 03.07.2006 issued by the petitioner Corporation to the first respondent has been marked as Ex.P6. Copy of the criminal complaint dated 07.01.1998 against the first respondent has been marked as Ex.P7. The legal notice dated 10.10.2011 sent by the petitioner Corporation to the respondents has been marked as Ex.P8. The notice sent to the second respondent has been returned unserved and the same has been marked as Ex.P9. Ex.P10, the copy of the account sheets reveals that the first respondent has committed default in repayment of loan amount and the amount due and payable by the first respondent. Ex.P11, the authorization letter dated 02.12.2021 authorizing Mr.P.A.Khaja Mohideen, Junior Officer to file documents and to give evidence on behalf of the petitioner Corporation has also been marked.

7. After giving due consideration to the averments contained in the petition as well as the Exhibits marked on the side of the petitioner, this Court is of the considered view that the petitioner Corporation has proved its claim as sought for in the petition and the respondents are liable to pay the outstanding dues to the petitioner Corporation. Since the loan transaction is for commercial purpose, the petitioner Corporation is entitled to recover interest as mentioned in the loan document Ex.P1. Accordingly, this Original Petition is allowed.

8. The respondents are directed jointly and severally to pay a sum of Rs.10,17,15,190/- together with interest at 18% per annum from the date of claim till the date of realisation within a period of three months from the date of receipt of a copy of this Order.

08.03.2022

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P.VELMURUGAN, J.

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