



O.P.No.649 of 2010

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N.SATHISH KUMAR, J.

This Petition has been filed under Section 31 [a], 31(aa) and 32 of the State Financial Corporation Act, 1951 for directing the respondents to pay a sum of Rs.71,65,017/- to the petitioner Corporation with interest at the rate of 17% per annum from the date of the petition to till the date of realisation.

2. The first respondent Company applied for loan assistance with the petitioner corporation and the petitioner sanctioned a term loan of Rs.7.40 lakhs to purchase and erection of machinery. The respondents executed Hypothecation, Undertaking, Personal Guarantee to secure the loan. The second and third respondents executed Deed of Personal Guarantee dated 15.07.1994 in favour of the petitioner. The fourth respondent has also deposited title deeds with the petitioner corporation. As the instalments have been defaulted, the petitioner Corporation foreclosed the loan account on 25.01.2000. Even after foreclosure, the respondents did not pay the



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amount. When the matter stood thus, the machineries were removed by the

respondents. Hence, the present petition has been filed.

3. The respondents despite serving notice remained *ex parte*. The Senior Manager of the petitioner corporation is examined as P.W.1 and Exs.P1 to P15 were marked. P.W.1 in his evidence had narrated the terms and conditions of the sanction letter of loan, mortgage, hypothecation and guarantee deed executed by the respondents. Ex.P.2 is the copy of the terms and conditions of the loan dated 08.09.1993. Ex.P.3 hypothication deed indicate that the first respondent has hypothicated the machineries with the petitioner Corporation. Ex.P.4 is the Guarantee Deed executed the second and third respondents. Ex.P.5 is the deed for deposit of title deeds in favour of the petitioner Corporation. Ex.P.6 to Ex.P.11 title deeds and revenue records have been filed to show that the original documents have been deposited before the petitioner Corporation. Ex.P.15 is the statement of accounts of the first respondent for the period from 26.09.1994 to 29.10.1999.



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4. The evidence of the PW1 and the documents filed on behalf of the petitioner clearly shows the loan transaction and conditions of repayment, besides hypothecation of title deeds.

5. Considering the above and the fact that the respondents have remained *ex parte*, I am of the view that the petitioner has proved its claim and hence, the petitioner is entitled for recovery of amount.

6. . Accordingly, this petition is allowed. The respondents 2 to 4 are directed to pay a sum of Rs.71,65,017/- to the petitioner Corporation with interest at the rate of 17% per annum from the date of the petition to till the date of realisation. Further, the petitioner Corporation is also permitted to sell the schedule mentioned property of by their authorised officer to realise the amounts. The parties shall bear their own costs.

13.12.2023

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