



O.P.NO.263 OF 2011

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WEB CO **N.SATHISH KUMAR, J.**

This Original Petition has been filed under Section 31(a), 31(aa) and 32 of the State Financial Corporation's Act, 1951 with a prayer to determine the liability and direct the respondents 1 to 4 herein to pay jointly and severally a sum of Rs.37,20,763/- (Rupees Thirty Seven Lakhs Twenty Thousand Seven Hundred and Sixty Three Only) to the petitioner Corporation with interest at the rate of 17.50% per annum from the date of the petition till the date of realization in full and to order sale of “A” Schedule property towards realization of the above sum.

2.It is the case of the petitioner that the petitioner has sanctioned a Term Loan of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the first respondent on 14.09.1994 towards purchase and erection of machinery. As per the terms and conditions, the Term Loan is to be repaid in 20 quarterly instalments with interest @ 17.50 % per annum. The first respondent has hypothecated the machinery by the Deed of Hypothecation dated 14.03.1995 for a sum of Rs.2,50,000/-. Besides, the fourth respondent created equitable mortgage on the same day in “A” Schedule property for the



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loan amount and deposited all the title deeds with the petitioner Corporation.

The respondents 2 and 3 executed a Deed of Guarantee and Indemnity on 14.03.1995 for the loan disbursed in favour of the first respondent. However, the first respondent has committed default and removed machinery beyond the reach of the petitioner Corporation. The loan was sanctioned on 14.09.1994 and loan documents were executed on 14.03.1995. Final instalments become due on 01.01.2001, 22.12.2009, 05.02.2010 and 25.03.2010 and final notice of demand was made on 28.08.2010 by the petitioner Corporation. Hence, the petitioner has come up with the present petition.

3.Despite of service of notice, respondents 1 to 3 remained *exparte* and set *exparte* and the fourth defendant has been given up by the petitioner. The learned counsel for the petitioner has also made an endorsement to that effect in the Court bundle.

4.On the side of the petitioner, one Mr.D.Suresh Babu has been examined as P.W.1 and Exs-P.1 to P.8 were marked.



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5.P.W.1 – Mr.D.Suresh Babu is the Junior Officer of the petitioner Corporation and he has stated about the manner in which the loan has been sanctioned to the first respondent. Ex-P.1 is the original Authorization Letter dated 26.11.2021; Ex-P.2 is the Original Terms and Conditions of the Sanction Order dated 15.11.1994; Ex-P.3 is the Original Hypothecation dated 14.03.1995; Ex-P.4 is the Original Letter confirming the deposit of title deed dated 15.03.1995; Ex-P.5 is the copy of notice to the respondent dated 22.12.2009; Ex-P.6 is the postal acknowledgment dated 31.12.2009; Ex-P.7 is the final notice dated 28.08.2010 and Ex-P.8 is the certified copy of Accounts Sheets.

6.Considering the averments made in the Original Petition and the documents filed by the petitioner, I am satisfied that the petitioner has established their entitlement and recovery of such amount. Accordingly, the respondents 1 to 3 are directed to pay the amount with interest as prayed for. This Original Petition is ordered as prayed for as against the respondents 1 to 3 and dismissed as against the fourth respondent.

18.12.2023

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