O.P. No.674 of 2019

N.SATHISH KUMAR, J.

This Petition has been filed under Sections 31 & 31 (1) (aa) of the State Financial Corporation Act, 1951 for directing the respondents to pay a sum of Rs.10,14,46,514.20/- as on 31.03.2019 to the petitioner Corporation with interest at the rate of 14.5% per annum, however, in case of default an additional interest at 5% per annum will be charged on the defaulted amount for the defaulted period and interest with compounded half yearly from the date of the petition to till the date of realisation in full and permit the petitioner to sell the schedule mentioned property of the third respondent.

2. The first respondent is a Company applied for loan assistance with the petitioner corporation and the petitioner sanctioned a term loan of Rs.5 lakhs and subsidy bridge loan of Rs.1.61 lakhs for setting up of leather manufaturing unit. The first respondent hypothecated the machinery. The third respondent created equitable mortgage on the scheduled property and deposited all the title deeds with the petitioner corporation. As the defendants failed to repay the loan amount which resulted in foreclosure of loan dues and the petitioner corporation took possession of the machinery on 24.12.1992. The petitioner Corporation issued notices on 23.07.2004 and 10.12.2005 for clearance of over dues and the collateral property could not be auctioned. Further, the petitioner corporation sent a letter on 16.05.2019 for settlement of loan account under one time settlement. As there was no response, hence, this petition.

3. The respondents despite serving notice remained *ex parte*. The Junior Officer of the petitioner corporation is examined as P.W.1 and Exs.P1 to P12 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 others. Ex.P.2 is the photocopy of the terms and conditions of the loan dated 10.05.1991. Ex.P3 is the photocopy of the Deed of Hypothecation dated 04.11.1992. Ex.P5 is the photocopy of memorandum of deposit of title deeds dated 12.06.1991. Exs.P8 to P10 are the photocopies of the petitioner's letter. Ex.P12 is the photocopy of the statement of accounts.

4. The evidences of the PW1 clearly shows that the properties have been mortgaged after availing the loan, there are dues payable by the respondents and notice is also issued calling for repaying the loan.

5. Considering the above and the fact that the respondents 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 are directed to pay a sum of Rs.10,14,46,514.20/- as on 31.03.2019 to the petitioner Corporation with interest at the rate of 14.5% per annum, however, in case of default an additional interest at 5% per annum will be charged on the defaulted amount for the defaulted period and interest with compounded half yearly from the date of the petition to till the date of realisation in full. Further, the petitioner Corporation is also permitted to sell the schedule mentioned property of third respondent by their authorised officer to realise the amounts. The parties shall bear their own costs.

01.11.2023

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N.SATHISH KUMAR, J.

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