

**O.P. No.1029 of 2017****N.SATHISH KUMAR, J.**

This Petition has been filed under Section 31 (i) (aa) of the State Financial Corporation Act, 1951 for directing the respondents to pay a sum of Rs.1,46,21,80,975/- to the petitioner Corporation with interest at the rate of 12% per annum from the date of the petition to till the date of realisation.

2. The first respondent is a Company applied for loan assistance with the petitioner corporation and the petitioner sanctioned a term loan of Rs.150 lakhs and Rs.15 lakhs towards State Capital Subsidy. The respondents executed Hypothecation, Undertaking, Personal Guarantee to secure the loan. The respondents 2, 3 & 4 executed Deed of Personal Guarantee dated 01.08.1991. As the defendants failed to repay the loan amount and the first respondent company was declared sick, the Official Liquidator taken over the unit on 08.04.2022 and the same was auctioned receiving a sum of Rs.61,48,224/-. Even thereafter, there is still a due of Rs.1,46,21,80,975/- payable by the first respondent company. Thereafter, the petitioner issued a notice invoking the personal guarantee on



01.08.2022. Thereafter, this petition.

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3. The respondents despite serving notice remained *ex parte*. The Assistant Manager (F) of the petitioner corporation is examined as P.W.1 and Exs.P1 to P14 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 sanction letter dated 26.06.1991. Ex.P4 is the photocopy of the Deed of Hypothecation dated 01.08.1991. Exs.P5 & P8 are the photocopies of the deed of personal guarantee. Ex.P12 is the office copy of the invocation of personal guarantee. Ex.P14 are the photocopies of the statement of accounts.

4. The evidences of the PW1 clearly shows that the properties have been mortgaged after availing the loan, the respondents 2, 3 & 4 have executed personal guarantee and to that effect notice has been effected to the respondents and there are still dues payable by the respondents.



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. At this stage, the learned counsel for the petitioner submitted that the the Order of recovery is as against the respondents 2 to 4 and with regard to the respondents 5 and 6, the same may be dismissed, since, they have been made as a formal party to this petition.

7. Accordingly, this petition is allowed. The respondents 2 to 4 are directed to pay a sum of Rs.1,46,21,80,975/- to the petitioner Corporation with interest at the rate of 12% per annum from the date of the petition to till the date of realisation. The Order of recovery as against the respondents 5 and 6 are dismissed. 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.

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