O.P. No.863 of 2017

N.SATHISH KUMAR, J.

This Petition has been filed under Sections 31 & 31 (aa) of the State Financial Corporation Act, 1951 for directing the respondents 2 to 5 to pay a sum of Rs.19,79,89,880.50/- to the petitioner Corporation with interest at the rate of 23% per annum 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.20 lakhs towards purchase of raw materials and Rs.13 lakhs towards working capital. The 2nd respondent hypothecated the machinery. The respondents executed a Deed of Guarantee dated 01.11.1996. The third respondent created collateral properties 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 on 14.05.2002. The petitioner Corporation issued notice on 19.05.2005 for clearance of over dues and a

notice on 10.04.2010 was issued for recalling the entire loan. As none turned up, the petitioner Corporation issued a notice under Section 13(2) of SARFAESI Act on 23.11.2010. When the petitioner proposed to take possession of the third respondent property, it came to know that the third respondent sold the property to an extent of 7375 sq.ft. The petitioner Corporation sent a notice on 28.10.2016 for settlement of loan under one-time settlement. As there was no response, this petition is came up before this Court.

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 P11 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 03.07.1996. Ex.P3 is the photocopy of the Deed of Hypothecation dated 01.11.1996. Ex.P4 is the memorandum of deposit of title deeds dated 04.11.1996. Exs.P6 to P11 are the photocopies of the notices issued to the respondents. Ex.P11 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, notice under Section 13(2) of the SARFAESI Act and notice in Daily Thanthi and the News Express on 23.11.2010 were issued on 23.11.2010 and further, legal notices were sent on 31.08.2015 & 28.10.2016 for settlement of loan under one-time settlement.

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 2 to 5 to pay a sum of Rs.19,79,89,880.50/- to the petitioner Corporation with interest at the rate of 23% per annum 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

dhk

N.SATHISH KUMAR, J.

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