O.P. No.555 of 2004

N.SATHISH KUMAR, J.

This Petition has been filed under Sections 31(a), 31(aa) & 32 of the State Financial Corporation Act, 1951 for determining the liability and direct the respondents 2 to 7 to pay a sum of Rs.5,42,69,254.10 ps to the petitioner Corporation with interest from the date of petition to till the date of realisation.

2. The first respondent is the Company and others respondents are directors and guarantors. The first respondent intended to set up a ready made garments, men and women's wear at Plot No.B-1, Madras Export Processing Zone, Tambaram, Chennai – 600 045 and applied for loan with the petitioner corporation. The petitioner corporation sanctioned first term loan of Rs.56.00 lakhs on 27.05.1987, second 534m loan of Rs.14.10 lakhs on 10.05.1989, third term loan of 67.00 lakhs on 17.11.1993 and IDBI Seed Capital Assistant of Rs.10.00 lakhs on 27.05.1997 and SIPCOT Soft Loan of Rs.2.00 lakhs on 27.05.1987. The respondents 1 to 6 herein hypothecated the assets by way of equitable mortgage on 23.03.1988, 21.06.1989, 03.02.1994 and 25.08.1988

respectively and deposited all the title deeds with the petitioner corporation. The respondents 2 to 4 have executed Deed of Personal Guarantee on 2.03.1988, 03.08.1988, 25.08.1988 and 21.06.1989 and respondents 5 and 6 have also executed deed of Personal Guarantee on 03.02.1994 for due repayment of the loans by the first respondent. As the defendants failed to repay the loan amount which resulted in foreclosure of term loan dues on 29.03.1996. In this regard, legal notice is also sent on 16.03.2001, however, no amount has been paid. Hence, this petition.

3. The respondents despite service of notice and name printed in the cause list remained *ex parte*. The Assistant Officer of the petitioner corporation is examined as P.W.1 and Exs.P1 to P29 were marked. P.W.1 in his evidence had narrated the terms and conditions of the sanction letter of loans, mortgage, hypothecation and personal guarantee deed executed by the respondents. Ex.P.1 is the Original authorization letter dated 10.01.2022. Ex.P.2, Ex.P.7, Ex.P.15 and Ex.P.18 are original sanction letter executed by the petitioner corporation. Ex.P.3, Ex.P.9, Ex.P.13, Ex.P.20 are deed of hypothecation executed by the first respondent in favour of the petitioner. Ex.P.4, Ex.P.8, Ex.P.12 and Ex.P.19 are the deeds of undertaking executed by

the first respondent in favour of the petitioner corporation. The respondents have executed personal guarantees Ex.P.6, Ex.P.10, Ex.P.14 and Ex.P.17 for the loans obtained by the first respondent. Ex.P.27 is the fore-closure and recall order dated 29.03.1996 issued by the petitioner corporation to the first respondent. Ex.P.29 is the photocopy of the account statement.

4. Considering entire documents and nature of loans availed by the respondents and documents executed by the respondents and taking note of the fact that the respondents remained *ex parte*, I am of the view that the petitioner has proved their claim and hence, the petitioner is entitled for recovery of amount.

5**.** Accordingly, this petition is allowed. The respondents 2 to 6 are directed to pay jointly and severally a sum of Rs.5,42,69,254.10 to the petitioner Corporation with interest at the rate of 15% p.a., from the date of petition to till the date of realisation in full. The parties shall bear their own costs.

11.01.2024

vrc

N.SATHISH KUMAR, J.

vrc

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