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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.02.2026

Pronounced on : 02.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

OSA.No. 194 of 2018

Tamil Nadu Industrial Investment
Corporation Limited
Rep. by its Branch Manager,
Special Recovery Branch
No.692, Anna Salai, Nandanam,
Chennai – 600 035.

... Appellant

Vs.

1. Thiru B.Kishtamma Naidu (died)
W/o Late Boopathy Naidu
Kondigai Village, Aladu Post,
Ponneri Taluk,
Thiruvallur District.
2. Sampoorammal
W/o. Late B.Kishtamma Naidu
3. Bharathi
D/o. Late B.Kishtamma Naidu
W/o. Balaji
4. A.K.Babu



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S/o. Late B.Kistamma Naidu

5.

A.K.Suresh

S/o. late B.Kishtamma Naidu

... Respondents

RR 2 to RR 5 brought on record as LR's of the deceased R1 viz (Thiru B.Kishtamma Naidu) vide order of Court dated 24.04.2024 made in C.M.P.Nos. 5528, 5532 and 5533 of 2024 in O.S.A.No. 194 of 2018 (MSJ and KGTJ)

PRAYER: Appeal filed under Order XXXVI Rule 1 of O.S. Rules read with Clause 15 of Letters Patent, against the order dated 31.03.2016 passed by His Lordship Mr.Justice K.K.Sasidharan made in O.P.No. 625 of 2010 on the file of the High Court, Madras.

For Appellant : Mr. K.Magesh

For Respondents : Mr. R.Krishnasamy

JUDGMENT

(Order of the Court was made by **C.V.KARTHIKEYAN, J.**)

The petitioner / the Tamil Nadu Industrial Investment Corporation Limited in O.P.No. 625 of 2010 is the appellant herein, having filed the appeal against the order of the learned Single Judge dated 31.03.2016 allowing the said Original Petition against the first to fourth respondents therein and absolving the fifth and sixth respondents from liability. The Appeal has been filed challenging that portion of the order absolving the



fifth and sixth respondents from liability.

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2. It is the case of the appellant that they are a public financial institution incorporated by the Government of Tamil Nadu with the object to grant loans and advances to industries. As security for such loan, land and building and also machineries are hypothecated in favour of the petitioner. It had been contended that the second to fourth respondents in the Original Petition, had sought financial assistance to start a leather garments manufacturing unit and on examination of the loan proposal, the appellant had sanctioned a term loan of Rs.5.50 lakhs on 28.08.1995 towards purchase of machinery and a further loan of Rs.5.50 lakhs towards capital term loan. The second to fourth respondents hypothecated their machineries by deed of hypothecation dated 28.02.1996.

3. It was contended by the petitioner that the fifth respondent had mortgaged his immovable property as security on 28.02.1996 and the title deeds were deposited on the same day and such deposit was independently confirmed on the same day. The second to fourth respondents carried on business in the name of M/s. Sri Chakra Leather Garments, impleaded as the first respondent.



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4. The second to fourth respondents executed a deed of guarantee on 28.02.1996 and undertook to repay the loan in 28 quarterly instalments with interest at the rate of 17.5% p.a. It was the contention of the appellant that they never repaid the loan but removed the machineries beyond the reach of the appellant corporation. The appellant then invoked Section 29 of the State Financial Corporation Act, 1951 and took constructive possession of the properties which had been mortgaged with them. However, the Hon'ble Supreme Court had held that Section 29 of the State Financial Corporation Act does not confer power on the financial institutions to recover from the properties of guarantors and therefore, the action initiated by the appellant corporation was withdrawn.

5. Thereafter, they filed O.P.No. 625 of 2010 under Sections 31 and 31(aa) of the State Financial Corporation Act 1951 seeking a Judgment and Decree against the second and fifth respondents to pay a sum of Rs.1,76,25,535/- together with interest at the rate of 18.5% p.a (2.5% will be charged on the defaulted amount for the defaulted period) compounded half yearly from the date of the petition till the date of realisation and also for costs of the litigation.



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6. The fifth respondent had filed a counter affidavit specifically denying the allegation that he had deposited the title deeds of the property on 28.02.1996 with the petitioner corporation. He further denied that he had executed a confirmation deed for such deposit of title deeds. He further alleged that he was neither a borrower nor a guarantor for the loans advanced by the petitioner corporation/second to fourth respondents. He stated that a fraud had been played and this was evident when the documents were inspected and in the forms filed by the petitioner and obtained at the time of advancing the loan, the photograph of some stranger had been affixed as if he was the fifth respondent and the form had also been signed by a stranger and not by the fifth respondent. It was contended that one Radhakrishnan had obtained the original title deeds holding out that he would be able to sell the said lands for a good price. It was specifically contended that the said Radhakrishnan in collusion with others had deposited the title deeds of his property with the petitioner corporation. It was therefore contended that since he had not executed any document in favour of the petitioner corporation, the Original Petition should be dismissed against him.



7. During the hearing of the Original Petition, the first to fourth and sixth respondents remained exparte. It was contested only by the fifth respondent. The learned Single Judge, who had examined the averments made in the Original Petition and in the counter affidavit and also the documents filed had given a very categorical finding that in the forms said to have been submitted by the fifth respondent, the photograph of a stranger had been affixed and some third person had also affixed the signature. A specific finding was given that the fifth respondent had not executed any document. The statement of the learned counsel for the appellant that the appellant had no document to connect the fifth respondent with the transaction was also noted. Since there were no documents filed by the petitioner corporation connecting the fifth respondent with the transaction, the Original Petition was decreed only against the first to fourth respondents. There were also no documents to show that the sixth respondent had either signed as as a principal borrower or as a guarantor. In view of the above findings, the Original Petition was dismissed as against the fifth to sixth respondents. That order has been put to challenge in this Appeal.

8. Heard the learned counsel for the appellant and also the learned counsel for the fifth respondent.



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9. It must be pointed out that pending the Appeal, the appellants had sought deletion of the first to fourth respondents and the sixth respondent from the array of parties and an order to this effect was passed on 04.09.2017 in C.M.P.No. 12836 of 2017. The fifth respondent was therefore rearranged as the first respondent. He also died pending the appeal and his legal representatives were brought on record as second to fifth respondents.

10. We had perused the documents filed along with the Original Petition. We are dismayed to note that the appellant corporation had filed as a document, the mortgage deed said to have been executed by the deceased first respondent/fifth respondent in the Original Petition wherein the photograph of a stranger had been affixed. This fact had also been very fairly admitted by the learned counsel for the appellant. In order to ascertain this fact, we directed the Branch Manager of the appellant corporation to be present before this Court.

11. Accordingly, Ms. V.Senthilkumari, Branch Manager of Chennai Branch of the appellant corporation was present before this Court on 26.02.2026. The Officer also perused the records and was fair enough to



admit that the photograph of a stranger was found affixed in the forms said to have been submitted by the deceased first respondent/fifth respondent in the Original Petition. The signature was also not that of the said deceased the first respondent/fifth respondent in the Original Petition. It is thus evident that the learned Single Judge had correctly assessed the facts and had come to a correct decision that there were no records connecting the deceased first respondent/fifth respondent in the Original Petition with the loan transaction between the appellant corporation and the principal borrowers. The issue is one of fact. It is evident that the appellant corporation had instituted the petition on the basis of the inadmissible documents. We are of the firm view that the Judgment and Decree of the learned Single Judge requires no interference.

12. The Judgment and Decree of the learned Single Judge absolving the deceased first respondent herein / fifth respondent in the Original Petition of all liability is confirmed by us.

13. The Appeal stands dismissed. No order as to costs.

[C.V.K., J.]

[K.B., J.]



02.04.2026

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C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.

vsg

Pre-Delivery Judgment made in

OSA.No. 194 of 2018



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