<u>WITNESS IS PRESENT AND DULY SWORN ON 30.05.2023.</u>

<u>Cross examination by Sri.G.V.B advocate for respondent No.2(a) and (c):</u>

The petition is filed in accordance with provisions of SFC Act, 1951. The petition is based on the agreement executed by respondent No.1 in favor of petitioner Corporation. The Corporation has complied with the conditions enshrined in the hypothecation deed executed by respondent No.1. The Corporation has verified a credit worthiness of respondent No.1 before sanctioning the loan. The Corporation has invoked Sec. 29 of SFC Act and proceeded against hypothecated assets before filing the present petition. Except Ex.P.1 to Ex.P.8 I have not furnished any other documents in respect of petition loan transaction. It is not true to suggest that the Corporation has not complied with mandatory requirement of Sec. 29 of SFC Act. It is not true to suggest that as the Corporation has not followed Sec. 29 of SFC Act we have not furnished any documents pertaining to Sec. 29 proceedings.

The respondent No.1 became a defaulter in 1996. it is true that the Corporation ought to have issued notice to the respondent No.1 on his first default itself. The Corporation had issued notice to the respondent No.1 in

1996. I have not furnished any documents to show that the Corporation has issued notice to the respondent No.1 on his first default itself. It is not true to suggest that the Corporation has not complied with Sec. 30 of SFC Act. The Corporation has notified the respondent No.2 about the default committed by the respondent No.1. I have not furnished copy of said notice before the Court. It is not true to suggest that the corporation has not issued any such notice to respondent No.2.

The witness has admitted ledger extract filed along with the petition and the same is marked as Ex.R.1(Ex.R.1 transaction pertains to respondent No.1). Ex.P.8 is also a ledger extract pertaining to transaction of respondent No.1 with the petitioner Corporation.

Que: What do you say that the entries made in Ex.R.1 and entries made in Ex.P.8 do not tally with each other?
Ans: Ex.P.8 is the summary of loan account and Ex.R.1 is the demand due statement.

The repayments made by the respondent no.1 are recorded in Ex.R.1. The payments shown in Ex.P.8 also finds a place in Ex.R.1 also. It is not true to suggest that in Ex.R.1 the payments made by the respondent No.1 are not recorded. Every repayment has a voucher and mode of payment. I have not furnished vouchers and other documents pertaining to payments made by the respondent No.1. It is not true to suggest that in order to save the limitation to file the petition the Corporation has concocted the entries in Ex.P.8.

It is not true to suggest that the Corporation has not issued any notice to the respondents. The witness deposes that the Corporation has issued notice dated 09.01.1998 as per Ex.P7 to the respondents. I am not aware whether the Corporation has furnished postal acknowledgments to evidence the service of notice issued as per Ex.P.7 to the respondents. As per the procedure following by the Corporation the respondents were given time to clear the dues of the Corporation.

The Corporation has sanctioned loan under transport scheme to enable the respondent No.1 to purchase the machinery. As per the scheme of loan the extent of liability of borrower and the guarantor are fixed as per Ex.P.6. As per Ex.P.6 the liability of respondent No.2 was fixed at 7.92 Lakhs. I am not aware whether the Corporation has determined the liability of respondent No.2 proportionate to the liability fixed under Ex.P.6. The Corporation had notified the respondent No.2 about the default committed by the respondent No.1 and the liability of respondent No.2 to clear the dues. I have not furnished any documents to show that the Corporation has issued such a demand notice to respondent No.2. It is not true to suggest that the Corporation without following the provisions of SFC Act is trying to recover the dues from respondent No.2. It is not true to suggest that the Corporation was not vigilant in executing its rights against principal borrower. As per Ex.P.5 the primary security for the repayment of loan is plant and machinery of respondent No.1. The Corporation was obliged to conduct quarterly audit of the financial condition of respondent No.1. The Corporation has not furnished copies of audit. It is not true to suggest that as the Corporation has failed to take action in accordance with a provisions of SFC Act against respondent No.1, the respondent No.2 is not liable to pay any amount to the Corporation. It is not true to suggest that the Corporation has slept over the matter since 1996 and is trying to make unlawful gain against the respondent No.2. It is not true to suggest that as the Corporation has failed to properly monitor the loan status of respondent no.1, now it is not open for the Corporation to initiate any action against respondent No.2 for recovery of alleged dues. It is not true to suggest that the respondent No.2 was not appraised of the details of loan, nature of loan and the liability of a surety before getting Ex.P.6 executed. The Corporation used to inform the borrower and the surety about the variation in rate of interest. It is not true to suggest that the Corporation has not filed any supporting documents in respect of petition claim. It is not true to suggest that the Corporation has not disclosed the outstanding balance amount, difference payable by the borrower and surety. It is not true to suggest that the Corporation is not entitled to claim the interest from respondent No.2 as the Corporation has notified the respondent No.2 regarding the variation in rate of interest. It is not true to suggest that the petition claim do not tally with the entries made in Ex.P.8. It is not true to suggest that there is no nexus between the alleged petition loan transaction and Lrs., of deceased respondent No.2. It is not true to suggest that the Corporation has filed the present petition in collusion with respondent No.1 against the respondent to make unlawful gain.

RE-EXAMINATION: NIL.

(Typed to my dictation in the open court)

ROI and AC

(S J KRISHNA)
LXXXIX Addl. CC & SJ, Bengaluru.