

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.19254 to 19258 of 2018 and  
W.M.P.Nos.22643 to 22647 of 2018

K.Paramasivam .. Petitioner in W.P.No.19254 of 2018

P.Sathiyamoorthy .. Petitioner in W.P.No.19255 of 2018

Maharaja Sivam Industries Pvt Ltd.,  
Door No.119, Bhavani Road,  
Veerappan Chatram, Erode Taluk,  
Erode District - 638 004  
rep by its Director K.Paramasivam  
.. Petitioner in W.P.No.19256 of 2018

Maharaja Kalai Arangam Pvt Ltd.,  
Door No.119, Bhavani Road,  
Veerappan Chatram, Erode Taluk,  
Erode District - 638 004  
rep by its Director K.Paramasivam  
.. Petitioner in W.P.No.19257 of 2018

Maharaja Prawn and Farming Oil Dealers Pvt Ltd.,  
Door No.119, Bhavani Road,  
Veerappan Chatram, Erode Taluk,  
Erode District - 638 004  
rep by its Director K.Paramasivam  
.. Petitioner in W.P.No.19258 of 2018

Vs.

The Deputy General Manager,  
M/s.State Bank of India,  
Stressed Assets Management Branch,  
No.1112, Raja Plaza, First Floor,  
Avinashi Road, Coimbatore - 641 037.

.. Respondent in all the W.Ps

Petitions under Article 226 of the Constitution of India,  
praying for the issue of a Writ of certiorarified mandamus to  
quash the notice dated 12.07.2018 bearing No.SAMB/CBE/CLO-  
III/532 and consequently direct the respondent to handover the  
documents relied upon by it to the petitioners and permit the  
petitioners to be represented by a Lawyer/Chartered Accountant.

For Petitioners: Mr.P.J.Rishikesh

For Respondent : Ms.S.R.Sumathy, Standing Counsel

C O M M O N     O R D E R

These Writ Petitions are directed against the impugned notice dated 12.07.2018 giving an opportunity of personal hearing to the petitioners to prove their identity and position in the Firm.

2.Assailing the impugned notice, it is contended that the main grievance of the petitioners is that their request to represent through Lawyer/Chartered Accountant/Consultant has been refused, which is against the dictum laid down in the judgment reported in 2015 SCC Online Del 14128 [Punjab National Bank Vs. Kingfisher Airlines Limited], which was also followed by this Court in an unreported order dated 05.02.2018 made in W.P.Nos.2478 & 2479 of 2018 [R.Asaitambi Vs. The Deputy General Manager, M/s.State Bank of India, Stressed Assets Management Branch, No.1112, Raja Plaza, First Floor, Avinashi Road, Coimbatore - 641037].

3.The impugned order no doubt gives an opportunity for making personal submission, but at the same time, the petitioners were denied an opportunity to represent their case through their Lawyer/Chartered Accountant/Consultant.

4.The relevant portion of the judgment reported in 2015 SCC Online Del 14128 [Punjab National Bank Vs. Kingfisher Airlines Limited] is extracted hereunder:

"...

(SS)We therefore conclude that the GRC of the appellant banks erred in denying representation through the advocates to the respondent. We further hold that the borrowers or the Banks/FIs who are proposed to be classified/declared as wilful defaulters and are given an opportunity of hearing before the GRC are entitled to be represented therein through advocates. We however hasten to clarify that the GRC would be fully empowered to control including as to the duration and guide the hearing and if finds dilatory and vexatious tactics being adopted, to take suitable consequential action."

5.The above referred judgment of the Delhi High Court was also followed by this Court in the order dated 05.02.2018 made in W.P.Nos.2478 & 2479 of 2018 and the relevant portion of the said order is extracted below:

"...

Mr.A.L.Somayaji, learned senior counsel appearing for the petitioners submitted that the impugned notice of personal hearing given to the petitioners, however, denying an opportunity for the petitioners to be accompanied by Lawyers/Chartered Accountant, is in violation of the Division Bench Order passed by the Delhi High Court, reported in [(2015) SCC Online Del 14128 2015 SCC Online Del 14128], wherein, it was held that the Grievance Redressal Committee satisfies the tests prescribed to qualify as a Tribunal and consequently, the appellant Banks therein erred in denying representation through the advocates to the respondent therein.

2.The learned senior counsel appearing for the petitioners further submitted that though the said order was put to challenge before the Apex Court and the matter is still pending, no interim order is granted staying the order of the Delhi High Court. He has also fairly invited this Court's attention to the fact that the other two High Courts namely Calcutta and Bombay High Courts have held against the said issue and those two decisions were also taken into consideration by the Delhi High Court.

3.Considering the above stated facts and circumstances, the respondent is directed to maintain status quo as on today for a period of three weeks.

4.Post the matter after three weeks."

6.In view of the above referred judgments, this Court finds no impediment to allow these Writ Petitions.

7.Ms.S.R.Sumathy, learned standing counsel taking notice for the respondent submitted that as the matter is posted for hearing on 30.07.2018, the petitioners may be directed to appear without taking any excuses.

8.The learned counsel for the petitioners submitted that the petitioners have also made a request to furnish certain documents, which are till date not furnished. The learned counsel for the petitioners also submitted that a detailed letter has been sent on 10.05.2018 and 14.05.2018 requesting the respondent to furnish the required documents.

9.The respondent is directed to furnish the documents to the petitioners on the date of the petitioners' appearance through their lawyers on 30.07.2018. It is made clear that the

petitioners are entitled to represent their case through Lawyers as per the ratio laid down in the judgments cited supra and also entitled to have all the documents which are relevant to their case.

10.In the result, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

The Deputy General Manager,  
M/s.State Bank of India,  
Stressed Assets Management Branch,  
No.1112, Raja Plaza, First Floor,  
Avinashi Road, Coimbatore - 641 037.

+1 CC to Mr.P.J.Rishikesh, Advocate sr 50927.

+1 CC to M/s.S.R. Sumathy, Advocate sr 51192.

+4 CCs to Mr.P.J.Rishikesh, Advocate sr 50927.(23/08/2018)

W.P.Nos.19254 to 19258 of 2018 and  
W.M.P.Nos.22643 to 22647 of 2018

SP(11/08/2018)

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