

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.31206 of 2013 and
M.P.Nos.1 to 3 of 2013 and 3 of 2014

M/S.EVERWIN TEXTILE MILLS (P) LTD.
REP. BY ITS MANAGING DIRECTOR
MR.K.PERIASAMY
NO.4/12, CHITTAPPA AVENUE
ROYAPURAM MAIN ROAD
TIRUPPUR - 641 001

.. PETITIONER

VS.

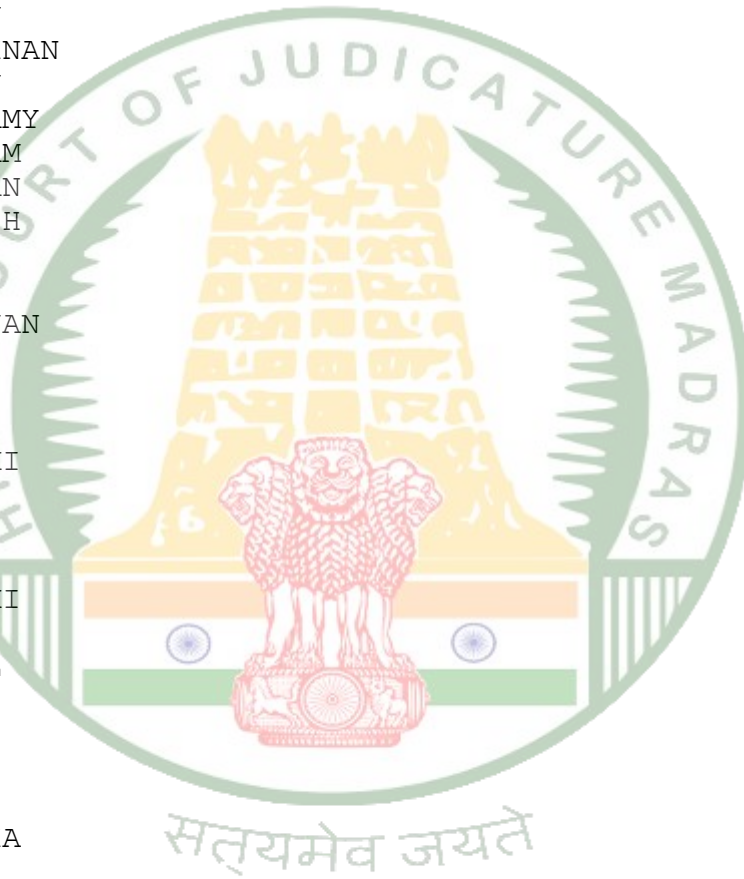
1. THE ASSISTANT GENERAL MANAGER
PUNJAB NATIONAL BANK
NO.54, SABARI STREET
TIRUPPUR - 641 601

2. THE CHIEF MANAGER
THE STATE BANK OF MYSORE
TIRUPPUR BRANCH
NO.72, APPACHI NAGAR MAIN ROAD
KONGUR NAGAR
TIRUPPUR - 641 607

3. THIRU PANCHALINGAM
REP. BY ITS H.R. MANAGER
AT NANJE GOWNDEN PUDUR
ACHIRAPATTI POST, POLLACHI
TIRUPPUR

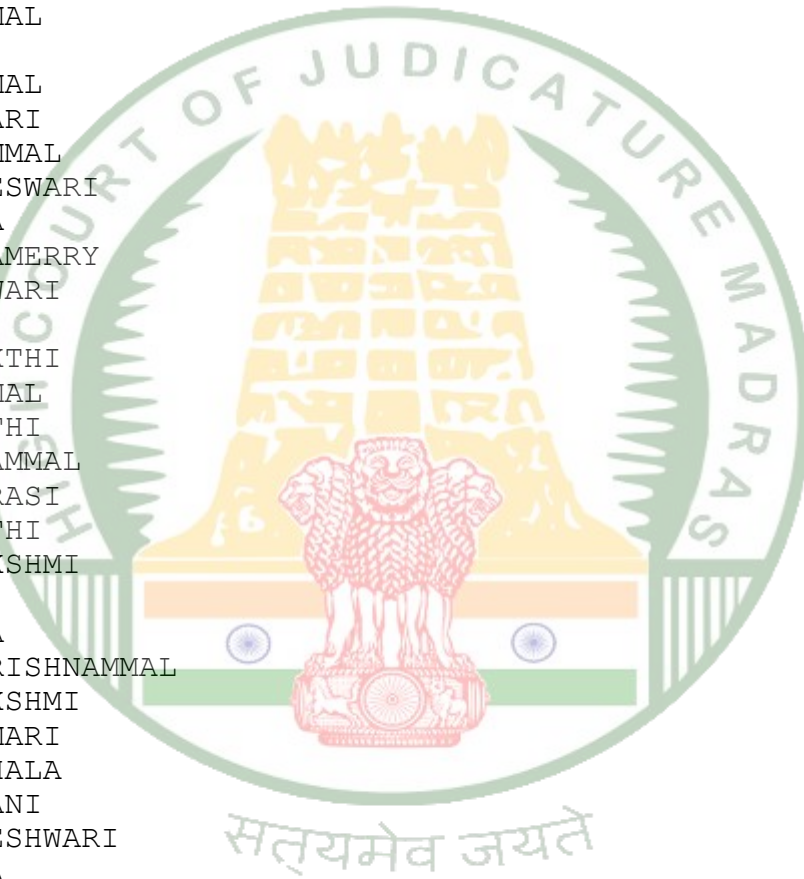
4. R.VELMURUGAN
5. S.SIVAKUMARAN
6. M.V.VISWANATHAN
7. K.KARNAN
8. S.THANGARAJ
9. K.PANEERSELVAM
10.S.CHANDRASEKAR

11.B.PRIYADHARSINI
12.G.KAVIPRIYA
13.R.RUBHALEKHA
14.R.MUTHULAKSHMI
15.K.VIJAYAKUMAR
16.T.R.KALIDASS
17.A.R.RAM KUMAR
18.V.VASANTHAKUMAR
19.K.KANDHASAMY
20.P.KALIDASS
21.B.MOHANRAJ
22.G.RAMASAMY
23.B.MANIKANDAN
24.K.MUTHUKRISHNAN
25.M.MANIKANDAN
26.S.NARAYANASAMY
27.K.SUBRAMANIAM
28.B.RAJASEKARAN
29.P.JAYAPRAKASH
30.M.PRAKASH
31.S.RAMESH
32.M.RAMAKRISHNAN
33.M.SENTHIL
34.T.KUMARAVEL
35.T.AMUTHA
36.R.RAJALAKSHMI
37.V.SELVI
38.A.MAHESWARI
39.M.KALIESWARI
40.C.JAYALAKSHMI
41.M.SARASWATHI
42.S.VALLIAMMAL
43.V.GOMALADEVI
44.G.MUTHUSELVI
45.S.MARISELVI
46.C.SARANYA
47. B.SORNALATHA
48 R.MALARVIZHI
49.P.SHANMUGAVADIVU
50 M.SARANYA
51 R.JEGATHESASELVI
52 M.GOWSALYA
53 N.AGASTHIYA
54 N.SUJITHRADEVI
55 A.MUTHULAKSHMI
56 K.TAMILSELVI
57 S.SANGEETHA
58 V.SATHYA
59 N.THANGAMMAL
60 N.KALPANA



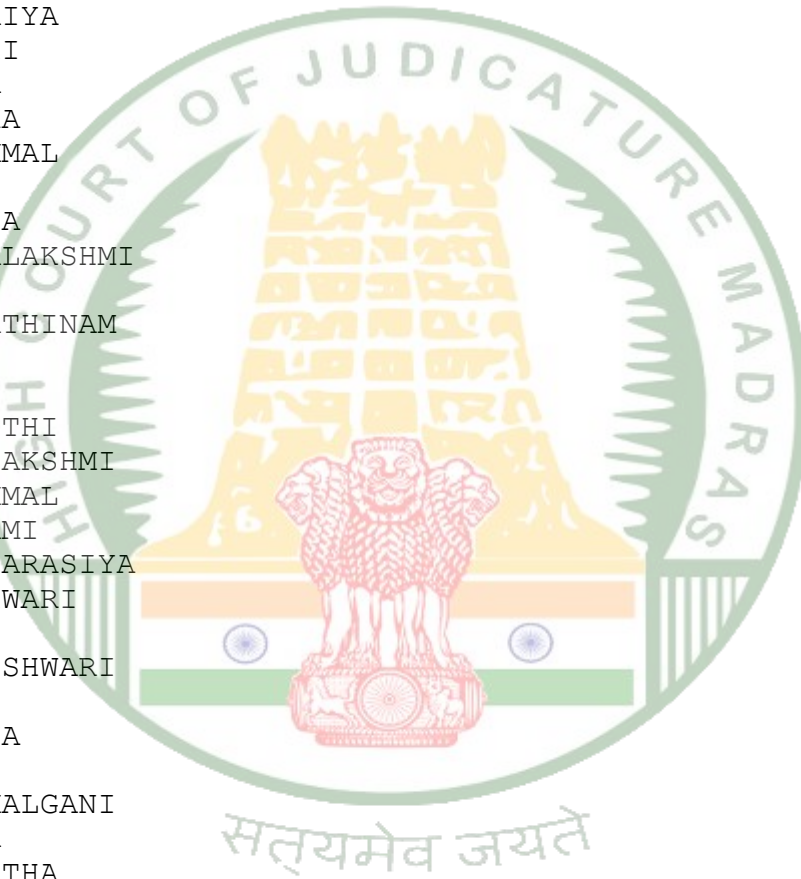
WEB COPY

61 P.KAVITHA
62 M.KALIESWARI
63 M.SANGEETHA
64 P.INDRA
65 M.MUTHUESAKKIAMMAL
66 S.SOWNDHARYA
67 I.MARIYA ANNA PACKIYAM
68 E.MANJULA
69 M.SHANTHI
70 M.REVATHI
71 B.KANAGAVALLI KALPANA
72 P.REVATHI
73 M.VEERAMMAL
74 M.VASUKI
75 N.KALIAMMAL
76 S.NAGESWARI
77.K.VALLIAMMAL
78 B.ANGALIESWARI
79 S.P.SUDHA
80 A.BHUVANAMERRY
81 M.MUNISHWARI
82 S.DHANAM
83 S.SIVASAKTHI
84 K.MARIAMMAL
85 S.NAGAJOTHI
86 E.ESAKKIAMMAL
87 T.TAMILARASI
88 R.PASUPATHI
89 S.MARILAKSHMI
90 P.CHITRA
91 M.KANNIKA
92 V.MUTHUKRISHNAMMAL
93 S.ANNALAKSHMI
94 P.RAJAKUMARI
95 E.SAGUNTHALA
96 S.MANONMANI
97 B.SANGARESHWARI
98 L.KAVITHA
99 P.DURGA
100 T.VINU
101 B.ALAGUMEENAL
102 N.VADIVUKKARASI
103 M.MUTHUMARI
104 V.SELVARANI
105 K.JOTHI
106 J.ANJUTHA
107 S.MUTHULAKSHMI
108 P.SANGEETHA
109 I.BHARATHI
110 V.THANGALAKSHMI VIJI



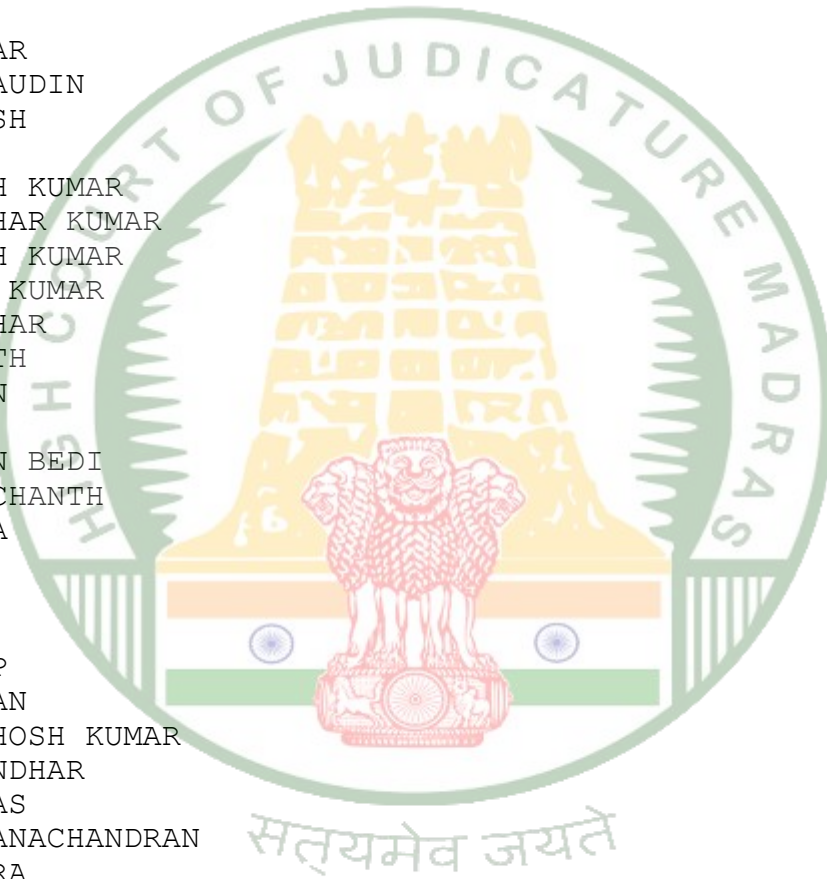
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111 A.MARIAMMAL
112 AVUDAIAMMAL
113 V.MUTHUMANI
114 A.GRACE
115 M.HARIRAMALAKSHMI
116 V.DEVI
117 V.ESWARI
118 S.SUMATHI
119 Y.JAYAMERRY
120 G.PEACHIAMMAL
121 N.GOKILA
122 K.SANKARI
123 D.ISHWARIYA
124 R.SHANTHI
125 P.GEETHA
126 V.SHOBIKA
127 K.VELLAMMAL
128 S.PRIYA
129 K.SUGANYA
130 N.MURUGALAKSHMI
131 R.SIVA
132 K.NAGARATHINAM
133 R.MEENA
134 K.PRIYA
135 S.JAYAJOTHI
136 S.MUTHULAKSHMI
137 V.MARIAMMAL
138 K.SIVAGAMI
139 K.SILAMBARASIYA
140 R.RAJESHWARI
141 S.DIVYA
142 N.PARAMESHWARI
143 N.ESWARI
144 M.SARANYA
145 K.PRIYA
146 P.THIRUMALGANI
147 N.CHITRA
148 S.SANGEETHA
149 S.NARYANAVADIVU
150 S.POTHUM PONNU
151 P.MARI
152 P.MURUGESWARI
153 P.RAMALAKSHMI
154 T.CHITRA
155 N.JOTHI
156 M.RAMUTHAI
157 P.BACKIYALAKSHMI
158 S.ISHWARIYA
159 N.RAJESH
160 R.SANTHOSH KUMAR



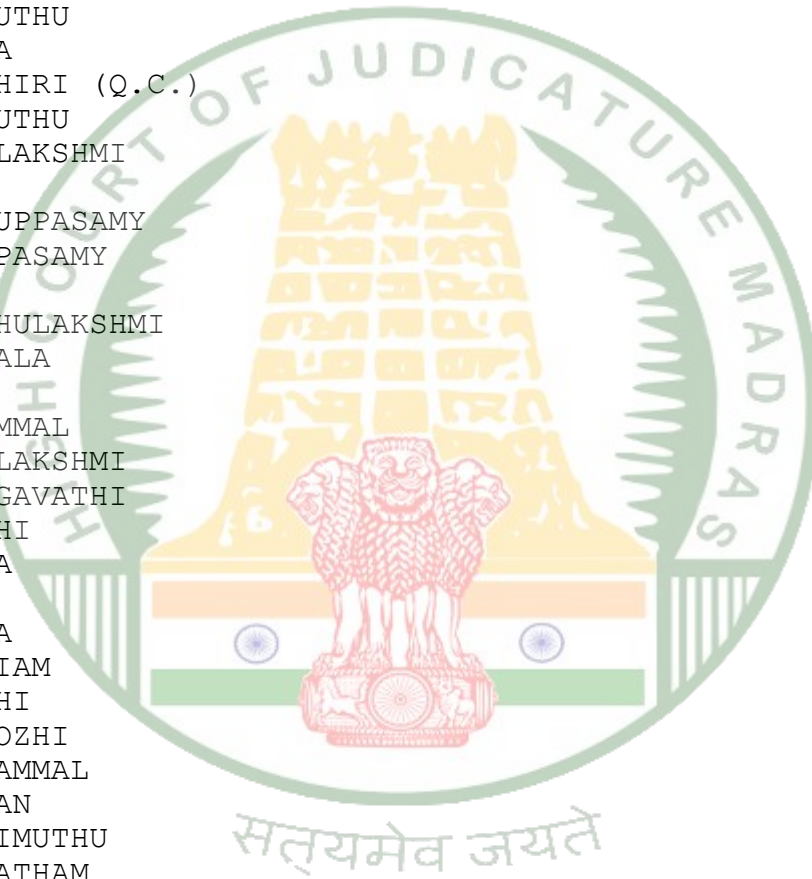
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161 S.PINNKU KUMAR
162 P.RAJU
163 SRIMAN
164 S.MADESH KUMAR
165 DINESH KUMAR
166 HOWDESH KUMAR
167 RANJAN
168 B.GURUBA
169 D.RAJKUMAR
170 SUNIL KUMAR
171 R.MANOJ
172 KRISHNA
173 SUJITH
174 DEVANDAR
175 MD.JALAUDIN
176 J.NARESH
177 MANOJ
178 S.AMITH KUMAR
179 JOHINDHAR KUMAR
180 PRAMOTH KUMAR
181 SUBOTH KUMAR
182 GANGADHAR
183 H.SARATH
184 S.RAMAN
185 ARJUN
186 CHANDAN BEDI
187 GULON CHANTH
188 CHAKKRA
189 TUFAN
190 MUNNA
191 S.GOBI
192 PRADEEP
193 M.IRFHAN
194 J.SANTHOSH KUMAR
195 DHARMENDHAR
196 N.MANNAS
197 S.POORANACHANDRAN
198 RABINDRA
199 S.M.DHARMENDAR
200 S.BIJINDARDASS
201 G.BILLU
202 R.JOHINDAR KUMAR
203 SANDEEP KUMAR
204 N.RAJABABU
205 INDIRAJITH
206 MUNNA DASS
207 M.RAJENDHAR
208 LINGARAJ
209 C.AJITH
210 NANDHI KISHORE



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211 V.RAJESHWARI
212 K.MAHALAKSHMI
213 A.RANI
214 M.MUTHUKUMAR
215 A.KALAIVANI
216 V.KALIAMMAL
217 S.MADHANRAJ
218 S.VELUMANI
219 S.PANCHAVARANAM
220 V.SARATHA
221 B.MOHANAPRIYA
222 V.DHANLAKSHMI
223 A.MARIMUTHU
224 K.CHITRA
225 M.GAYATHIRI (Q.C.)
226 T.MARIMUTHU
227 M.MUTHULAKSHMI
228 R.RAMYA
229 K.M.KARUPPASAMY
230 V.KARUPPASAMY
231 E.BABY
232 A.M.MUTHULAKSHMI
233 K.SASIKALA
234 M.LATHA
235 P.KALIAMMAL
236 R.DHANALAKSHMI
237 M.THILAGAVATHI
238 V.SUMATHI
239 R.SHEELA
240 R.DIVYA
241 M.AMUTHA
242 V.ELANJIAM
243 M.SHANTHI
244 K.KANIMOZHI
245 M.SUNDRAMMAL
246 J.RAGAVAN
247 S.PEACHIMUTHU
248 E.MARAGATHAM
249 S.RAMASAMY
250 M.RADHIKA
251 C.DEEPA
252 A.MEHESHWARI
253 R.NANDHINI
254 S.CHITRA
255 B.NANDHINI
256 R.R.RAMYA
257 R.PRIJITHA
258 S.KIRUTHIKA
259 K.V.LAKSHMI
260 H.VAIDEGI



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261 T.VALLIAMMAL
262 P.MARIMUTHU
263 A.SELVARAJ
264 G.BHUVANESHWARI
265 K.RAJESHWARI
266 S.RANGANAYAGI
267 V.VADIVU
268 S.NARAYANAN
269 S.BASKER
270 B.LAKSHMIANNAL
271 K.SAROJINI
272 M.KALIAMMAL
273 S.GOWSALYA
274 K.KUPPAMMAL

R-4 to R 274 impleaded as per order dated
27.03.2014 in M.P.No.1 of 2014 in W.P.No.31206/2013

275 M/S.EDELWEISS ASSET
RECONSTRUCTION COMPANY LTD
REP BY MR.AMIT AGARWAL
DIRECTOR - INVESTMENT, 15TH FLOOR,
EDELWEISS HOUSE,
OFF C.S.T. ROAD,
KALINA, MUMBAI - 400 098.

R 275 impleaded as per order dated
22.07.2014 in M.P.No.2 of 2014 in W.P.No.31206/2013

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the records on the file of the respondents dated 08.10.2013 and 09.11.2013 and quash the same and direct the respondents to consider the proposal for revival, rehabilitation and reconstruction of the unit in the light of the proposal submitted by the petitioner on 26.8.2013 and 03.09.2013 in the interest of the unit and welfare of the worker/s employees and their right guaranteed U/A 19(1)(g) of the constitution.

For Petitioners : Mr.S.N.Kirubanandam

For Respondents : Mr. M.C.Ganesh - for R1
Mr. S.Sethuraman - for R2
Mrs.Indumathi Ravi - for R275
No appearance - for R3 to R274

O R D E R
(Order of the Court made by M.DURAISWAMY, J.)

The petitioner has filed the above Writ Petition as Public Interest Litigation to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondents dated 08.10.2013 and 09.11.2013, to quash the same and direct the respondents to consider the proposal for revival, rehabilitation and reconstruction of the unit in the light of the proposal submitted by the petitioner on 26.8.2013 and 03.09.2013 in the interest of the unit and welfare of the workers/ employees and their right guaranteed under Article 19 (1) (g) of the Constitution of India.

2. It is the case of the petitioner that they availed loan from the 2nd respondent bank. Since the petitioner committed default in repaying the loan, the respondents 1 and 2 initiated proceedings under the SARFAESI Act. During the pending of the SARFAESI proceedings, the petitioner submitted a proposal for rehabilitation/rescheduling of the loan and advances. With regard to the proposal submitted by the petitioner, the respondent-bank informed the petitioner that they are not in a position to consider the rehabilitation proposal by their letters dated 08.10.2013 and 09.11.2013. Challenging these two letters, the petitioner has filed the above Writ Petition.

3. When the Writ Petition is taken up for hearing, learned counsel appearing for the respondent-bank submitted that Punjab National Bank has filed a Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application adjudicating Authority) Rules, 2016 before the National Company Law Tribunal, Chennai against the Writ Petitioner and the Tribunal, by order dated 29.10.2018, appointed Interim Resolution Professional (IRP) to take charge of the petitioner's Management immediately. The Tribunal also granted moratorium till the completion of the Corporate Insolvency Resolution Process and also prohibited the Institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any decree or judgment or order in any court of law, Tribunal, Arbitration Panel or other Authority.

4. In view of the order passed by the National Company Law Tribunal, we are of the considered view that the relief sought for in the present writ Petition cannot be granted. The Writ Petitioner, being the respondent before the National Company Law Tribunal, may put-forth their case before the Tribunal. Therefore, in view of the order dated 29.10.2018

passed by the National Company Law Tribunal, nothing survives for adjudication in the present Writ Petition. Accordingly, the Writ Petition is dismissed as infructuous. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj
To

1 The Assistant General Manager
Punjab National Bank
No.54, Sabari Street
Tiruppur - 641 601

2 The Chief Manager
The State Bank of Mysore
Tiruppur Branch
No.72, Appachi Nagar Main Road
Kongur Nagar
Tiruppur - 641 607

+1cc to Mr.S.Sethuraman, Advocate, S.R.No.3823

W.P. No.31206 of 2013 and
M.P.Nos.1 to 3 of 2013 and 3 of 2014

MP (CO)
GSP (06/02/2019)

सत्यमेव जयते
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