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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.16493 of 2021

M/s. Mallur Siddeswara Spinning
Mills Pvt Ltd.,
Rep by its Authorised Signatory,
Kashasai E., Attyampatty Road,
Athanur Post, Salem 636 121.

...Petitioner

-vs-

- 1 The Ministry of Finance
Rep. by the Secretary, Finance Ministry,
Govt. of India, Rajpath Marg,
E Block Central
Secretariat, New Delhi 110 011.
- 2 The Ministry for Micro Small
and Medium Enterprises, Rep. by its
Secretary, Room No.356A, Udyog Bhavan,
Rafi Marg, New Delhi 110 011.
- 3 The Reserve Bank of India
Rep. by its Secretary, Banking Department,
Finance department, Government of India,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi 110 001.
- 4 The Micro Small and Medium Enterprises
Rep by Joint Director and Head of Office,
Government of India, Micro small
and Medium Enterprises Bhavan,
65/1, GST Road, Guindy, Chennai 600 032.
- 5 The Reserve Bank of India
Rep by Regional Director for Tamilnadu,
St. Fort Glacis, Rajaji Salai, PB No. 40,
Chennai 600 001.



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Karnataka Bank Ltd
Rep by its Chief Manager, No.160,
Ground Floor, Sri Sai Kamatchi,
Opp Government Arts College,
Cherry Road, Salem 636 007.

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(RR 1 to 5 deleted as per order dt.
10.8.2021 in WP.No.16493/2021)

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents herein to consider the representation dated 10.06.2021 and take steps for restructuring of loans of the petitioner considering the company within the ambit of the Covid 19 Regulatory Circulars issued by the RBI.

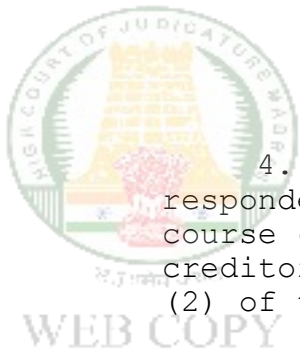
For Petitioner : Ms.G.Josephine Shreela
for Mr.S.V.Pravin Rathinam

ORDER
(Made by the Hon'ble Chief Justice)

The petition is as misconceived as they come and there is no shred of merit therein. To boot, the petitioner has unnecessarily added the first, second, third, fourth and fifth respondents as parties when there was no need therefor. The names of the first five respondents are deleted from the array of parties.

2. The petitioner seeks a direction on the sixth respondent secured creditor to consider the petitioner's representation issued in response to a notice issued by the sixth respondent under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner claims that by virtue of its status as an MSME unit - though Advocate for the petitioner cannot indicate whether the unit is a micro or a small or a medium enterprise - it is entitled to special consideration.

3. In the scheme of Section 13 of the Act of 2002, a noticee in receipt of a notice under Section 13 (2) of the Act may cite any defence, which the secured creditor is then obliged to consider and respond to. However, neither the defence indicated nor the secured creditor's response thereto is immediately justiciable as the noticee has to await the secured creditor taking any measure under Section 13 (4) of the Act before the noticee may, as a person aggrieved, apply to the jurisdictional Debts Recovery Tribunal with its objection.



4. No writ can lie directing the sixth, now the sole, respondent to consider the representation or take any particular course of action since it is already the obligation of a secured creditor to consider a reply to a notice issued under Section 13 (2) of the Act by virtue of Section 13 (3A) thereof.

W.P.No.16493 of 2021 is disposed of. There will be no order as to costs. Consequently, W.M.P.No.17466 of 2021 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Secretary,
The Ministry of Finance
Finance Ministry,
Govt. of India, Rajpath Marg, E Block Central
Secretariat, New Delhi 110 011.
2. The Secretary,
The Ministry for Micro Small
and Medium Enterprises,
Room No.356A, Udyog Bhavan,
Rafi Marg, New Delhi 110 011.
3. The Secretary,
The Reserve Bank of India
Banking Department,
Finance department, Government of India,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi 110 001.
4. The Joint Director and Head of Office,
The Micro Small and Medium Enterprises
Government of India, Micro small
and Medium Enterprises Bhavan,
65/1, GST Road, Guindy,
Chennai 600 032.



5. The Regional Director for Tamilnadu,
The Reserve Bank of India
St. Fort Glacis, Rajaji Salai, PB No. 40,
Chennai 600 001.

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Copy To

1. The Chief Manager,
Karnataka Bank Ltd
No.160, Ground Floor,
Sri Sai Kamatchi,
Opp Government Arts College,
Cherry Road, Salem 636 007.

+2cc to Mr.T.V.Krishnamachari, Advocate, S.R.No.39261

W.P.No.16493 of 2021

MG (CO)
RGA (16/08/2021)