



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

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THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

**C.S.(Comm. Div.) No.462 of 2018
and O.A.Nos.663 OF 2018, A.Nos.7192 of 2018,
3616 and 4998 of 2019**

1. M/s. Kamachi Industries Ltd.
Rep by its Managing Director,
Mr. Sardarmal Kothari ,
ABC Trade Centre, 3rd Floor,
50, Old No. 39, Anna Salai,
Chennai 600 002

2. Mr. Sardarmal Kothari,
Managing Director,
M/s. Kamachi Industries Ltd.
No. 10, Sylvan Lodge Colony,
1st Cross Road, Kilpauk,
Chennai - 600 010.

... Plaintiffs

Versus

1. State Bank of India
Industrial Finance Branch,
KRM Plaza, Harrington Road, Ground Floor,
Chennai 600 031.

2. Andhra Bank
Main Branch,
48/39 Wavoo Mansion
Rajaji Salai, Chennai 600 001.

3. Canara Bank
Spencer Tower I, Ground Floor, 770, Anna Salai,



Chennai - 600 002

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4. Union Bank of India,
17, G.A. Road,
Old Washermanpet,
Chennai 600 021

5. Punjab National Bank
150, Luz Church Road,
Mylapore, Chennai

6. Bank of India,
IV Floor, Tarapore Towers,
826, Anna Salai, Chennai 600 002

7. State Bank of India
Stressed Asset Management Branch
No. 32, Red Cross Building, 2nd Floor,
Montieth Road, Egmore, Chennai 600 008.

...Respondents

Prayer: Civil suit filed under Order (IV) Rule 1 of the O.S.Rules read with Order VII Rule 1 of C.P.C., praying for the following judgment and decree

- a) specifically perform the understanding dated 05.03.2018 recorded on 12.03.2018 between the plaintiff and defendant Nos.1 to 6 agreed at Chennai;
- b) permanent injunction restraining the defendants, its men, agents, assignees, executors, etc., from interfering with the plaintiffs' business activities in furtherance of the understanding dated 05.03.2018 recorded on 12.03.2018 between the plaintiff and defendants 1 to 6.
- c) for cost of the suit.

For Plaintiff : M/s.M.Narendran
for M/s.King & Patridge
Resolution Professional
for M/s.S.R.Raghunathan
For Defendants : Mr.A.V.Arun for D1 and D7
Mr.Varun Srinivasan for D2 to D6

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The suit filed by Company which is now under the teeth of liquidation facing proceedings before NCLT. The suit was filed as a commercial dispute before this Court on 03rd July 2018 in connection with financial transaction between the plaintiff and the defendant Banks, which are nationalised.

2. Subsequent to filing of the suit, it is now brought to the notice of this Court that proceeding has been initiated against the plaintiff for liquidation before NCLT and the matter is taken up by NCLT in IPAB No.883 of 2019. After deliberation, NCLT has appointed Resolution Professional on 19.02.2020.

3.Mr.Narendran, learned counsel for Resolution Professional submitted that on appointment of Resolution Professional, the first plaintiff which is the Company in the liquidation is represented by Resolution Professional and all financial disputes in connection with the first defendant are to be resolved only by NCLT in the light of Section 231 of the Indian Bankruptcy Act and further more, Section 11 of the Commercial Courts Act also debars this Court from entertaining disputes which are excluded from the purview of Civil Courts.



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DR.G.JAYACHANDRAN,J.

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4.On considering the above subsequent development after filing the suit, this Court is of the view that after matter been seized off by NCLT and on appointment of Resolution Professional, Civil Court has no jurisdiction to entertain the suit. Therefore, the suit is dismissed with liberty to the parties to agitate their cause before NCLT.

5.Section 11 of the Commercial Courts Act bar entertaining disputes which are expressly or impliedly barred under any other law. In the light of the above fact, the present suit cannot be kept on board in this Court. Hence, the suit is dismissed and all the connected applications are closed. The parties are at liberty to agitate their respective cause before NCLT in the pending proceedings in IPAB No.883 of 2019. Since the suit is dismissed on the point of jurisdiction, the plaintiffs are entitled for refund of Court fee on appropriate application.

29.10.2021

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