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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.19395 of 2018

and

WMP Nos.22810 & 22811 of 2018

1. M/s. BKR Hotels & Resorts Pvt. Ltd.,
rep. by its Managing Director,
Mr. D.R.Balakrishna Raja,
Old No.6, New No.9,
Venkatesan Street,
T.Nagar, Chennai 600 017.
 2. Balakrishna Raja D.R.,
 3. Smt. B.Devahie
- ...Petitioners

Vs

1. The Chairman and Managing Director,
Indian Bank,
Rajaji Salai, Chennai 600 001.
 2. The General manager/Zonal Manager,
Zonal office Chennai North,
Indian Bank,
No.55, Ethiraj Salai,
Chennai 600 008.
 3. The Deputy General manager/Authorised Officer,
Indian Bank Harbour Branch,
No.66, Rajaji Salai,
Chennai 600 001.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records leading to the issue of proceedings ZO:CHE(s) 2018-19 dated 27.04.2018 on the file of the 2nd respondent and quash the same and forbear the respondents from declaring the petitioner Company as a wilful defaulter and publishing the photograph of the Directors in the News Papers except by following the due process of law as enunciated by the reserve Bank of India in their Master Circular dated 01.07.2015.



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For petitioner ... Mr. K..Sridhar
For respondents ... Mr. V.V.Sivakumar,
for M/s.DVA Associates,
for R1 to R3

ORDER

This writ petition has been filed challenging the impugned enquiry notice issued by the respondent Bank for the purpose of declaring the petitioner company as a willful defaulter.

2.The petitioner company borrowed a loan from the respondent bank and failed to repay the same. Hence, the petitioner's company account has been declared as Non Performing Assets and subsequently, proceeding has been initiated under SARFAESI Act, subsequently, the respondent Bank take steps to declare the petitioner company as willful defaulter, and for the purpose of conducting enquiry to that effect, impugned notice has been issued to the petitioner company. Now, challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner submitted that, now, the petitioner company willing to settle the dues if the Bank agree for a one time settlement, and they are also willing to appear before the One Time Settlement Committee, and the Bank may be directed to consider their application for one time settlement. The learned counsel further submitted that, they are also ready and willing to appear for the enquiry pursuant to the impugned notice issued by the respondent Bank.

4.The learned counsel appearing for the respondents seriously objecting that request, submitted that, the petitioner company is a chronic defaulter and more than Rs.29 Crores is due and payable to the Bank, only to prolong the proceedings, the present writ petition has been filed.

5.Considering the fact that, now the petitioner Company is willing to cooperate with the enquiry, this Court directs the Screening Committee to issue fresh notice to the petitioner company. On receipt of the said notice, the petitioner is directed to appear before the Screening Committee and submit their objection, thereafter, the Screening Committee is directed to pass suitable orders on merits and in accordance with law, after giving opportunity of personal hearing to the petitioner.

6.So far as the request regarding the One Time Settlement Committee, the petitioner is permitted to file its application before the One Time Settlement Committee, within a period of two weeks from the date of receipt of a copy of this order.



Thereafter, the One Time Settlement Committee is directed to consider the petitioner's application and pass suitable orders, after hearing the petitioner within a period of four weeks, thereafter.

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7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Chairman and Managing Director,
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2. The General manager/Zonal Manager,
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Indian Bank, No.55, Ethiraj Salai,
Chennai 600 008.
3. The Deputy General manager/Authorised Officer,
Indian Bank Harbour Branch,
No.66, Rajaji Salai,
Chennai 600 001.

+1cc to M/s.K.Sridhar, Advocate, S.R.No.12072

+1cc to Mr.Chethan Sagar, Advocate, S.R.No.11740

W.P. No.19395 of 2018

(CO)
RGA(24/02/2022)