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W.P.No.21054 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.21054 of 2024

and W.M.P.Nos.23005, 26888 and 30378 of 2024

Sark Spice Produce Pvt. Ltd.,
TAK Industrial Complex,
Eara North, Neelamperoor Alappuzha,
Kerala - 686534,
rep. by its Chairman and Managing Director
Abraham T.Kuruvilla alias TA Kuruvila.

.. Petitioner

Vs

- 1.The Chief Manager/Authorised Officer,
The South Indian Bank Ltd.,
Regional Officer, Regency Square K.K.Road,
Collectorate, P.O. Kottayam,
Kerala-686 002.
- 2.The Branch Manager,
The South Indian Bank Ltd.,
Ward No.II, 1134C, Kunnutharayil Arcade M.C. Road,
Chingavanam P.O., Kottayam,
Kerala-686 531.
- 3.Abraham T.Kuruvilla alias TA.Kuruvila



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4.Kalpaka Processing Company,
rep. by Sole Proprietor,
Abraham T.Kuruvilla alias TA Kuruvila
Thuruthithara House,
Eara North P.O., Neelamperoor,
Alappuzha, Kerala - 686 534.

5.KSV Exporters Pvt. Ltd.,
TAK Industrial Complex,
Eara North, Neelamperoor,
Alappuzha, Kerala-686 534,
rep. by its Director
Abraham T.Kuruvilla alias TA Kuruvila

6.The Registrar,
Debt Recovery Appellate Tribunal,
7th Floor, Addl. Building,
Nungambakkam, Sastri Bhavan,
Chennai-600 006.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing 6th respondent to consider the re-open petition in MA.D.No.1087 of 2024 in IA No.334 of 2023 in AIR SA No.712 of 2023 pending on the file of Debt Recovery Appellate Tribunal at Chennai.

For Petitioner : No appearance

For Respondents : Mr.M.L.Ganesh
for respondent Nos.1 and 2



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: No appearance
for respondent Nos.3 to 5

: Tribunal
(Respondent No.6)

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

None for petitioner.

2. On 25.7.2024, a conditional order was passed, in which paragraph
3 reads as under:

“3. Normally this Court will not interfere with the recovery proceedings. In this case, the petitioner's counsel submitted that the petitioner was unable to make out the payment as per the direction of the Appellate Tribunal due to valid reasons. The learned counsel further states that the petitioner is prepared to deposit the sum of Rs.1,77,73,499/- now. The property is yet to be sold. The petitioner is aggrieved only by the interlocutory order seeking to enforce the order under Section 14 to take physical possession. In such circumstances, there shall be an order of stay of further proceedings, subject to the following conditions:-

- (i) Out of the amount of Rs.1,77,73,499/-, the petitioner shall deposit a sum of Rs.80,00,000/- on or before 05.08.2024 before the Registrar, Debts Recovery Appellate Tribunal, Chennai.
- (ii) The balance amount of Rs.97,73,499/- shall be deposited on or before 19.08.2024 before the Registrar, Debts Recovery Appellate Tribunal, Chennai.



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This interim order is without prejudice to the contentions of the respondent Bank. In the meanwhile, it is also open to the petitioner to submit a proposal for one time settlement. In case a proposal is submitted by the petitioner, the same shall also be considered and disposed of taking into consideration the Reserve Bank of India guidelines as well the norms, if any, by the respondent Bank.”

3. Shri Ganesh, appearing on behalf of respondent/bank through video-conferencing (could not be seen on video – only audio is available), states that the conditional order has not been complied with. There is also a letter dated 14.11.2024 from Shri Ganesh to the Registrar (Judicial), in which he has stated that petitioner has not complied with the order.

4. We, however, find two applications – (i) an application (WMP No.30378 of 2024), presented on 5.8.2024, seeking extension of three weeks' time from 5.8.2024 to comply with the first part of conditional order dated 25.7.2024, i.e., deposit a sum of Rs.80,00,000/-; and (ii) an application (WMP No.26888 of 2024), presented on 19.8.2024, seeking extension of three weeks' time from 25.7.2024 to comply with the second part of conditional order dated 25.7.2024, i.e., deposit additional amount of



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Rs.97,73,499/-. The period for which extension of time was sought also got over long ago and Mr.Ganesh states that the amount has not been paid.

5. Petition is dismissed. There shall be no order as to costs.
Consequently, all interim applications stand closed.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY,J.)

08.01.2025

Index : Yes/No
NC : Yes/No
sasi

To:

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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(sasi)

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