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A Nos.4793, 4794, 5570 & 5571 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

A Nos.4793, 4794, 5571 of 2025 & 5570 of 2023

in

E.P.No.69 of 2018

A No.4793 of 2025

M/s.Millennium Steel India Pvt Ltd
Rep.by its Managing Director
Mr.D.Hari Prasad Reddy,
No.98, Halls Road,
3rd Floor, Kilpauk, Chennai 600 010.

Applicant(s)

Vs

M/s Ind Barath Thermal Power Ltd.,
Rep.by its Managing Director
Having its Registered Office at
No.20, Chamiers Road, Nandanam,
Chennai 600 035.

Respondent(s)

A No. 4794 of 2025

M/s.Black Burn Fuels Pvt Limited
Formerly known as



A Nos.4793, 4794, 5570 & 5571 of 2025

M/s.Maheswari Brothers Coal Limited,
Rep.by its Director/Authorised
Signatory Mr.D.Hari Prasad Reddy,
No.7, Temple Street, New Avadi Road,
Kilpauk, Chennai 600 010.

Applicant(s)

Vs

M/s.Ind Barath Thermal Power Ltd.,
Rep. by its Managing Director
Having its Registered Office at
No.20, Chamiers Road,
Nandanam, Chennai 600 035.

Respondent(s)

A No. 5570 of 2023

M/s Ind Barath Thermal Power Limited
New No.20 (Old No.129)
Chamiers Road, Nandanam,
Chennai 600 035

Applicant(s)

Vs

1.IL and FS Financial Services Ltd
No.498 Karumuttu Centre,
3rd Floor South Wing, Anna Salai,
Nandanam, Chennai 600 035

2.Ms.Trimex Industries Private Limited
Trimex Towers
No.1, Subbaraya Avenue,



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C.P.Ramaswamy Road, Alwarpet,
Chennai 600 018

3.M/s.Millennium Steel India Private
Limited

No.98, Halls Road 3rd Floor,
Kilpauk, Chennai 10.

4.M/s.Black Burn Fuels Private Limited
No.7, Temple Street, New Avadi Road
Kilpauk, Chennai 10.

Respondent(s)

A No. 5571 of 2025

IL and FS Financial Services Ltd
No.498 Karumuttu Centre, 3rd Floor
South Wing, Anna Salai, Nandanam,
Chennai 600 035

Applicant(s)

Vs

1.M/s Ind Barath Thermal Power Limited
New.No.20, (Old no.129) Chamiers Road,
Nandanam, Chennai -35

2.Ms.Trimex Industries Private Limited
Trimex Towers
No.1, Subbaraya Avenue,
C.P.Ramaswamy Road, Alwarpet,
Chennai 600 018



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3.M/s.Millennium Steel India Private Limited
No.98, Halls Road 3rd Floor,
Kilpauk, Chennai 10.

4.M/s.Black Burn Fuels Private Limited
No.7, Temple Street, New Avadi Road
Kilpauk, Chennai 10.

Respondent(s)

PRAYER in A No.4793 of 2025

Application filed under Order XIV Rule 8 of OS Rules r/w. Order 39 rule 28 of OS Rules, to allow the Applicant to withdraw a sum of Rs.2,37,47,844/- (Rupees Two Crore Thirty Seven Lakhs Forty Seven Thousand Eight Hundred and Forty Four only) out of the amount of Rs.10,63,97,154 lying to the credit of E.P.No.69 of 2018.

PRAYER in A No.4794 of 2025

Application filed under Order XIV Rule 8 of OS Rules r/w. Order 39 rule 28 of OS Rules, to allow the Applicant to withdraw a sum of Rs.1,01,18,369/- (Rupees one crore one lakh eighteen thousand three hundred and sixty nine only) out of the amount of Rs.10,63,97,154 lying to the credit of E.P.No.69 of 2018.

PRAYER in A No.5570 of 2023

Application filed under Order XIV Rule 8 of O.S.Rules r/w.Rule 163 and Rule 165 of the Civil Rules of Practice and Section 151 of CPC to order payment out of a sum of Rs.10,63,97,154/- (Rupees ten crore sixty three lakhs ninety seven thousand one hundred and fifty four only) which is lying to the credit of E.P.No.69 of 2018 in favour of the Applicant in terms of paragraph 16 of this Court's common order dated 28.09.2022 in A.Nos.4974 and 4975 of 2021 in E.P.No.69 of 2018 and A.Nos.1073 to 1076, 1642 to 1647 of 2022 in A.Nos.3605, 3606 and 3923 of 2021 and E.P.No.69 of 2018 in C.S.Nos.303, 401, 403, 950 of 2017 and consequently issue a cheque for the said sum in



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favour of M/s.Ind Barath Thermal Power Limited.

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PRAYER in A No.5571 of 2025

Application filed under Order XIV Rule 8 of OS Rules r/w. Order XXXIX rule 28 of OS Rules, to allow a sum of Rs.5,65,82,006.50/- (Rupees five crores sixty five lakhs eighty two thousand and six rupees and fifty paise) out of the amount of Rs.10,63,97,154/- (Rupees ten crores sixty three lakhs ninety seven thousand one hundred fifty four only) lying to the credit of E.P.No.69 of 2018.

For Applicant: Ms.Revathi Manivannan
in A Nos.4793 & 4794 of 2025

Mr.Chandramouli Prabhakar
in A Nos.5570 of 2023

Mr.P.V.S.Gridhar
Senior counsel
assisted by Ms.Pooja Jain
for M/s.Giridhar and Sai
in A Nos.5571 of 2025

For Respondent: -

COMMON ORDER

Application No.4793 of 2025 has been filed to allow the Applicant to withdraw a sum of Rs.2,37,47,844/- (Rupees Two Crore Thirty Seven Lakhs Forty Seven Thousand Eight Hundred and Forty Four only) out of the amount of Rs.10,63,97,154 lying to the credit of E.P.No.69 of 2018.



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2.Application No.4794 of 2025 has been filed to allow the Applicant to withdraw a sum of Rs.1,01,18,369/- (Rupees one crore one lakh eighteen thousand three hundred and sixty nine only) out of the amount of Rs.10,63,97,154 lying to the credit of E.P.No.69 of 2018.

3.Application No.5570 of 2025 has been filed to order payment out of a sum of Rs.10,63,97,154/- (Rupees ten crore sixty three lakhs ninety seven thousand one hundred and fifty four only) which is lying to the credit of E.P.No.69 of 2018 in favour of the Applicant in terms of paragraph 16 of this Court's common order dated 28.09.2022 in A.Nos.4974 and 4975 of 2021 in E.P.No.69 of 2018 and A.Nos.1073 to 1076, 1642 to 1647 of 2022 in A.Nos.3605, 3606 and 3923 of 2021 and E.P.No.69 of 2018 in C.S.Nos.303, 401, 403, 950 of 2017 and consequently issue a cheque for the said sum in favour of M/s.Ind Barath Thermal Power Limited.

4.Application No.5571 of 2025 has been filed to allow the Applicant to withdraw a sum of of Rs.5,65,82,006.50/- (Rupees five crores sixty five lakhs eighty two thousand and six rupees and fifty paise) out of the amount of Rs.10,63,97,154/- (Rupees ten crores sixty three lakhs ninety seven thousand one hundred fifty four only) lying to the credit of E.P.No.69 of 2018.



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5.By an order dated 29.11.2021 in A.No.3605, 3606, 3923 of 2021 in C.S.Nos.401, 403 & 303 of 2017 and E.P.No.69 of 2018 in C.S.No.950 of 2017, this Court has issued the following direction:

c) Upon receipt of funds to the credit of E.P 69 of 2018, the monies shall be rateably distributed to the decree holders in all four suits viz., C.S.Nos.303 of 2017, 401 of 2017, and 403 of 2017 and C.S.No. 950 of 2017 in the following manner:

Party	Amount in %	Amount to be paid out (in Rupees)
M/s.Trimex	14.99%	16,84,31,151/-
M/s.Millennium Steel	22.32%	25,09,60,166/-
M/s.Blackburn	9.51%	10,69,27,920/-
M/s.IL & FS	53.18%	59,79,41,831/-

d) In view of the order directing the rateable distribution of the monies lying to the credit of the suits in C.S.Nos. 303 of 2017, 401 of 2017, and 403 of 2017, the amounts shall cease, forthwith, to be the property of the judgment debtor in view of the decision of the Supreme Court in Kotak & Co. v. State of U.P., (1987) 1 SCC 455, and shall vest with the decree holders in the proportion set out in paragraph 62(c), supra.

e) Upon the filing of appropriate applications for payment out, the aforesaid sums shall be paid out to the decree holders in the four suits, i.e., C.S.Nos. 303 of 2017, 401 of 2017, and 403 of 2017, and C.S.No. 950 of 2017 under due authorization and acknowledgement. For this purpose, the Master Original Side, is



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directed to entertain the payment out applications and order release of the sums indicated in paragraph 62(c), supra, to the respective decree holders.”

6. According to the Applicant/Corporate Debtor, vide payment out order dated 17.12.2021, necessary directions were issued by this Court to pay the aforesaid four decree holders as per the above table of rateable distribution and they were paid accordingly. As per the affidavit filed in support of Application No.5570/2023, the four decree holders were paid rateably out of Rs.112,42,61,068/-. However, the total amount lying with the Registry to the credit of the Suits as per payment out order dated 17.12.2021 was a sum of Rs.120,35,05,670/-. Therefore, the remaining amount is still lying in the credit of the Suits.

7. By an order dated 28.09.2022 in Application Nos.4974 & 4975 of 2021 in E.P.No.69 of 2018 and A.Nos.1073 to 1076, 1642 to 1647 of 2022 in A.Nos.3605, 3606 & 3923 of 2021 and E.P.No.69 of 2018 in C.S.Nos.303, 401, 403 & 950 of 2017, this Court has issued the following direction:

16. For reasons set out above, the applications to set aside the order dated 29.11.2021 are rejected on the ground that the said applications are not maintainable after the amounts were disbursed to the respective decree holder. However, it is open to



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the banks to institute a suit in respect thereof against the decree holders. It is also open to the resolution professional to file an appropriate application with regard to the amounts lying to the credit of the suits. Since the applications to set aside the order dated 29.11.2021 were rejected, the applications for impleading the banks as parties to the execution petition and the applications for an interim stay of the order do not survive and are also rejected.

8.The aforesaid order dated 28.09.2022 was challenged before the Division Bench of this Court in OSA(CAD) Nos.6, 9 & 8 of 2023, wherein the following order was issued:

“3. Considering the limited scope of the prayer, this Court finds that the order of the learned Single Judge can be clarified so that the applications filed by the appellants for the withdrawal of money can be decided on their merits, uninfluenced by any of the observations made by the learned Single Judge in paragraph 15 of the impugned order.

4. Accordingly, these appeals are dismissed. No costs. However, it is open to the appellants to prosecute independent applications for the withdrawal of money lying to the credit of the respective suits. The applications filed by the appellants shall be disposed of on merits, uninfluenced by any of the observations made by the learned Single Judge in paragraph 15 of the impugned order. This order is also without prejudice to the rights and contentions of the contesting respondents in the appeal. It is also open to the Official Liquidator of 10th respondent to file independent application for appropriate relief and the same shall be considered appropriately



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on merits.”

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9.Pursuant to the above said order, the present applications have been filed before this Court. The learned counsels for the Applicants submitted that the actual sum lying to the credit of C.S.Nos.303 of 2017, 401 of 2017 and 403 of 2017 is Rs.120,35,02,670/- (Rupees one hundred and twenty crore thirty five lakh two thousand six hundred and seventy only) and not Rs.112,42,61,068/-. The relevant portion in the affidavit filed by the Applicant in A.No.5571 of 2025 in EP.No.69 of 2018 is usefully extracted hereunder:

“3.It has now come to our notice that there was a clerical error in computing the sum available to the credit of the three suits, viz., sums lying to the credit of the Registrar General, High Court, Madras C.S.Nos.303 of 2017, 401 of 2017 and 403 of 2017. The sum available was actually Rs.120,35,02,670/- (Rupees one hundred and twenty crore thirty five lakhs two thousand six hundred and seventy only), but was erroneously computed as Rs.112,42,61,068/- (Rupees one hundred and twelve crore forty two lakhs sixty one thousand sixty eight only). As a result, a sum of Rs.7,92,41,602/- (Rupees seven crore ninety two lakhs forty one thousand six hundred and two only) was left out by an arithmetical mistake arising from an accidental slip or omission.”

10.It is pertinent to note that according to the applicants in all the applications, a sum of Rs.10,63,97,154/- is available to the credit of E.P.No.69 of 2018. The Liquidator appointed in respect of the Corporate Debtor has filed



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an affidavit stating that one M/s.Orissa Alloy Steel Private Limited (“Successful Bidder”) has successfully acquired the Corporate Debtor M/s.Ind Barath Thermal Power Limited as a going concern through e-auction held on 14.06.2024 and the Liquidator has issued a sale certificate dated 20.07.2024 along with Letter of Possession in favour of the Successful Bidder. He further submitted that now that the resolution process/liquidation process of the Corporate Debtor has been concluded, the Liquidator has become functus officio and does not have the requisite competence to further pursue the above captioned Application.

11.The Applicants in A.Nos.4793, 4794 & 5571 of 2025 are entitled for rateable distribution of the monies lying to the credit of the suits in C.S.Nos.303 of 2017, 401 of 2017 and 403 of 2017 which are transferred to the credit of E.P.No.69 of 2018 as per the order of this Court dated 29.11.2021 in A.Nos.3605, 3606, 3923 of 2021 in C.S.Nos.401, 403 & 303 of 2017 and E.P.No.69 of 2018 in C.S.No.950 of 2017. In the said order, it is made clear that the monies lying to the credit of the suits shall cease, forthwith to be the property of the judgment debtor in view of the judgment of the Hon'ble Supreme Court in *Kotak & Co. Vs. State of U.P.*, reported in (1987) 1 SCC 455 and the decree holders are entitled to the amount lying to the credit of the suits in the proportion set out therein.



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12.In view of the same, A Nos.4793, 4794 & 5571 of 2025 are ordered as prayed for. Post A.No.5570 of 2023 in E.P.No.69 of 2018 on 15.12.2025.

12-11-2025

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To

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1.M/s.Ind Barath Thernmal Power Ltd.,
Rep. by its Managing Director
Having its Registered Office at
No.20, Chamiers Road,
Nandanam, Chennai 600 035.

2.IL and FS Financial Services Ltd
No.498 Karumuttu Centre,
3rd Floor South Wing, Anna Salai,
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N.SENTHILKUMAR J.

sai

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in E.P.No.69 of 2018**

12-11-2025