

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH - BENGALURU**  
**(Exercising powers of Adjudicating Authority under**  
**The Insolvency and Bankruptcy Code, 2016)**  
**(through web based video-conferencing platform)**

**I.A No. 45 of 2024**  
**In**  
**CP (IB) No.69/BB/2022**  
**Under Regulation 30 of IBBI(IRPCP) Regulations, 2016**  
**R/w. Sections 60 (5) of IBC, 2016**

**IN THE MATTER OF I.A 45 OF 2024**

**Shri Kanekal Chandrashekar**

**RP of Sree Shanmuga Modern Rice Mills Pvt Ltd**

... Applicant

**Versus**

**NIL**

... Respondent

**Order delivered on: 24/04/2024**

**Coram:** 1. Hon'ble Shri K. Biswal, Member (Judicial)  
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**Parties/Counsels Present:**

For Applicant : Shri Hemanth R Rao

**ORDER**

**Per: K. Biswal, Member (Judicial)**

1. This Application has been filed on 18/12/2023 by Shri Kanekal Chandrashekar (herein after referred to as the Applicant), under Regulation 30 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) r/w 60(5) of the IBC, 2016 to direct "The Station House Officer, Bangarpet Police Station" to assist the Resolution professional in taking possession of the Schedule Property owned by the Corporate Debtor.
2. Detail of the Properties. (For brevity hereinafter referred to as "Schedule Properties")

**ITEM NO - 1**

Segment B of parboiled unit in Shree Sanmuga Modern Rice Mills Pvt Ltd, Sy No.02, Desihalli, Kasaba Hobli, K.G.F Road, Bangarpet – 563114 Dist Kolar.

All that part and parcel of the industrial property pertaining to the Segment B, measuring 250f X 90f = 22400 sq.ft which includes constructed buildings and all machineries of parboiled unit of Segment B situated at Desihalli, Kasaba Hobli, K.G.F Road Bangarpet in :-

- A. Survey No:2 part, Khatha No: 539/1 document no: 2505/94-95 measuring 0-17 guntas (18513 sq ft)
- B. Survey No: 1/5 part, Khatha No: 472 document no: 2259/94-95 measuring 0-15 guntas (16335 sq ft)
- C. Survey No: 2 part, Khatha No: 452 document no: 2259/94-95 measuring 0-15 guntas (16335 sq ft)
- D. Survey No : 2 part, Khatha no : 452 document no : 2250/94-95 measuring 1-20.50 guntas (65884.5 sq ft)
- E. Survey No : 2 part, Khatha no : 536/1 document no : 2249/94-95 measuring 0-20 guntas (13068 sq ft)

Boundaries: - East: Remaining land belongs to lessor, West: Road, North: Segment A, South: Segment C 2.

## **ITEM NO – 2**

Segment C of parboiled unit in Shree Shanmuga Modern Rice Mills Pvt Ltd, Sy.No.02, Desihalli, Kasaba Hobli, K.G.F. Road, Bangarpet -563114, Dist.Kolar.

All that part and parcel of the industrial property pertaining to the Segment C, measuring 250f X 105f = 26250 sq ft which includes constructed buildings and all machineries of parboiled unit of Segment C situated at Desihalli, Kasaba Hobli, K.G.F. Road, Bangarpet in

- A. Survey No : 2 part, Khatha no : 539/1 document no : 2505/94-95 measuring 0-17 guntas (18513 sq ft)
- B. Survey No : 1/5 part, Khatha no : 472 document no : 2259/94-95 measuring 0-15 guntas (16335 sq ft)
- C. Survey No : 2 part, Khatha no : 452 document no : 2295/94-95 measuring 1-20 guntas (65340 sq ft)
- D. Survey No : 2 part, Khatha no : 452 document no : 2250/94-95 measuring 1-20.50 guntas (65884.5 sq ft)
- E. Survey No : 2 part, Khatha no : 536/1 document no : 2249/94-95 measuring 0-20 guntas (13068 sq ft)

**Boundaries:** - East: Remaining land belongs to lessor, West: Road, North: Segment B, South: Segment D

The entire property is standing in the name of M/s Shree Shanmuga Modern Rice Mills Pvt. Ltd, represented by its Directors Shri R.N.Shanmugam and Shri R.S.Dilip Kumar, Bangarpet, Dist Kolar.

**Movable assets**

**EIHER TRUCKS.**

**Year of Vehicle 2016**

**Model of Vehicle: 2016K2OFTHSDWF WITH ABS**

**Eicher Trucks bearing registration No. KA 08 9592, KA 08 9594, KA 08 9591, KA 08 9595 and KA 08 9593.**

3. Brief facts of the case, which are relevant to the issue in question, and as narrated by the applicant are as follows:

1. An application was filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, by Canara Bank on 27/04/2022 in CP(IB) 69/2022. This Tribunal has initiated Corporate Insolvency Resolution Process against the Corporate Debtor vide Order dated 17/03/2023 and appointed the Applicant as the Interim Resolution Professional (“IRP”).
2. Prior to initiation of CIRP, the State of Karnataka had attached the assets of the Corporate Debtor under the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2005 ( hereinafter referred to as KPID). Pertinently, the Corporate Debtor and its erstwhile Directors, Shri R.N.Shanmugam and Shri.R.S.Dilip Kumar, filed WP No. 16377/2021 before the Hon’ble High Court of Karnataka. The Hon’ble High Court was pleased to grant an interim Order staying all further proceedings under the (KPID).
3. Further, the tenants of the Corporate Debtor have filed W.P. No. 11809/2021 challenging the Order dated 01/06/2021 in No.Misc(R)CR58/2019-20 passed by the Additional District Commissioner cum Additional District Magistrate, Kolar, attaching the property at Bangarpet, Kolar under the (KPID) on the ground that they

are bonafide tenants of the Schedule Properties. The Hon'ble High Court has granted interim stay Order dated 26/07/2021 considering the case of the tenants.

4. Further, on becoming aware of the appointment of IRP, the tenants have issued a Legal Notice dated 30/03/2023 and informed about the Interim Order dated 26/07/2021 passed by Hon'ble High Court in the Writ Petition No. 11809/2021. Pertinently, the tenants alleged that eviction of the tenants *“would result in deliberate disobedience of the Hon'ble High Court Order in WP No. 11809/2021 dated 26/07/2021”*.
5. Subsequently, the IRP has issued the Legal Notice dated 20/05/2023 terminating the Lease in respect of the said Properties and demanded the tenants to vacate the same within fifteen (15) days from the date of receipt of the Notice as under Section 18(f) of the Insolvency and Bankruptcy Code, 2016 (**“IBC”**), on appointment, the IRP is required to take control and custody of any asset over which the Corporate Debtor has ownership rights and it includes assets *“that may or may not be in possession of the corporate debtor”*.
6. However, the IRP has filed IA No.1/2023 in WP no. 11809/2021 on 29/05/2023 seeking leave of the Hon'ble High Court to take possession of the immovable property of the Corporate Debtor in accordance with the law. On 04.10.2023, the Hon'ble High Court was pleased to pass an Order in I.A 01/2023 that the respondents are permitted to proceed in accordance with law. .
7. The Schedule Property is the only immovable asset of the Corporate Debtor and hence, the CIRP proceedings have been stalled due to the obstinacy of the tenants in handing over possession of the suit Schedule Properties. Instead of peacefully vacating the suit Schedule Property, the tenants have issued a Legal Notice dated 31.10.2023 stating that the IRP must approach the civil court to obtain a decree to evict them. On receipt of the same, Reply Notice dated 03.11.2023 refuting the allegations made therein and giving the tenants seven (7) days to vacate the Schedule Properties. However, they have not vacated the Schedule Properties till date inspite of granting sufficient time and opportunity.
8. Therefore constrained to approach the jurisdictional Inspector of Police, Bangarpet on 17.11.2023, seeking assistance in taking

possession of the Schedule Property and submitted a representation dated 16.11.2023 bringing the aforementioned facts to the notice of the jurisdictional police. The jurisdictional police have acknowledged the representation but till date they have not taken any action in this regard. On enquiry, it was informed that in the absence of a court order, they will not be in a position to help. Hence, this application.

12. Having considered the above submissions, we are of the considered opinion that since the Schedule Properties are the only properties of the Corporate Debtor and stalling the CIRP process the same needs to be in the control of the RP. Hence, The Station House Officer, Bangarpet Police Station, is directed to assist the RP to take the possession of the Schedule properties.
13. Accordingly, **I.A. No.45 of 2024 in C.P.(IB)No.69/BB/2022** is hereby **disposed of.**

**MANOJ KUMAR DUBEY**  
**MEMBER (TECHNICAL)**

**K. BISWAL**  
**MEMBER (JUDICIAL)**