Presiding Officer

Case Citation: (2026) ibclaw.in 374 DRT

07.05.2026

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IA 1282 of 2019 in OA 1804 of 2018 is dismissed as per the separate order passed today. Post the matter to 04.06.2026 for defendants' evidence before Registrar.

Presiding Officer

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IN THE DEBTS RECOVERY TRIBUNAL-I, KARNATAKA
AT BENGALURU

PRESENT: SRI IMTIAZ ALI
PREIDING OFFICER

Dated this the 7th day of May, 2026

INTERLOCUTORY APPLICATION No.1282/2019

IN

ORIGINAL APPLICATION No.1804/2018

BETWEEN:

SVC Co-operative Bank Limited,
deemed to be registered under the
Multi-State Cooperative Societies Act,
2002, having its registered office at
Mumbai and branch among other places
at KSSIDC building, 5th Cross, 1st Stage,
Peenya Industrial Area, Bangalore,
Karnataka-560058. .....Petitioner/applicant bank

AND:

1. UNITEX APPARELS PRIVATE LIMITED,
A private limited company incorporated
Under the provisions of the Indian Companies Act, 1956
And having its office at No.24,
Pete Channappa Industrial Estate,
Sumanahalli Circle, Magadi Main Road,
Kamashipalya, Bengaluru-560079. .....1st Respondent /1st defendant

2. Triburg USA INC,
Wholly owned by Triburg Sportswear,
Represented by its Proprietor Sri Tarun Bakshi,
No.50/8, First Floor,
Tolstoy Lane, Janpath,
New Delhi-110001. .....2nd respondent/Proposed defendant No.10

This Interlocutory Application having been heard on 23.02.2026 in the presence of Advocates M/s M S Suryanarayan Rao and K Nagaraj for the petitioner/applicant bank, and Advocate Sri Arjun Rao for the 2nd respondent/proposed defendant No.10, and stood over to this day for consideration and the Tribunal delivered the following: -

ORDER

This petition has been filed by the petitioner on 25.04.2019 under S.19(25) of the RDB Act, 1993 r/w Order 1 Rule 10(2) of the CPC praying to permit the petitioner to

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Case Citation: (2026) ibclaw.in 374 DRT

implead the proposed defendant as the additional defendant No.10 in the original application. The petitioner is none other than the applicant bank to the OA proceedings.

2. The case set out by the petitioner through notary attested affidavit accompanying the IA in brief is as follows: -The petitioner submits that the original application filed by the petitioner is for recovery of a huge amount. The proposed defendant is a proper and necessary party to the proceedings and the owes a sum of ₹16,12,89,543/- as on 31.03.2017 to the 1st defendant company in the OA towards the supplies of products manufactured and sent by them to the proposed defendant No.10.The proposed defendant could not be made party to the proceedings due to non-availability of comprehensive data with the defendant No.1 company and its directors/guarantors. Hence, this application.

3. The proposed defendant filed counter styled as 'objections to IA' and contending as follows: - The proposed defendant is an entity incorporated in the United States of America. The proposed defendant along with the other entities of the Triburg Group is in the business of apparel sourcing solutions. The Triburg Group introduced the defendant No.1 to a garment manufacturing/exporting company by the name of M/s Hampshire Brands Inc., USA and thereafter the defendant No.1 and M/s Hampshire entered into an agreement and after that, the defendant No.1 entered marketing service agreement with the Triburg Group whereby the proposed defendant No.10 would act as a marketing/commissioning agent for the defendant No.1. Unfortunately, M/s Hampshire underwent bankruptcy in Delaware, USA and there were no payments made to the proposed defendant and to the 1st defendant. The proposed defendant No.10 owes no sums to the defendant No.1. The petitioner falsely states that the proposed defendant

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Case Citation: (2026) ibclaw.in 374 DRT

owes a sum of ₹16,12,89,543/- to the 1st defendant. This is allegedly based on an entry in the Audited Balance Sheet of the 1st defendant and the proposed defendant is taking steps to file complaints with the relevant authorities against the 1st defendant and its auditors. The application is not maintainable in law. The scope of the main proceedings is to adjudicate whether there is a default to pay owed sums by the defendants and not to execute any non-existent claim against the alleged creditors of the defendants. As such, the question of impleading alleged debtors of the 1st defendant does not arise. The proposed defendant is neither proper nor necessary party to the proceedings. The issues to be decided in the present OA are whether there is a sum of money due to the applicant and whether that sum of money has been paid by its debtor, the 1st defendant or not. Here the proposed defendant No.10 is not a party and nor it related to transactions between the petitioner and 1st defendant. The proposed defendant is stranger to the cause of action in the present OA. Therefore, the application is malafide and a result of collusion between the petitioner and the 1st defendant. Further the Hon'ble NCLT has declared a moratorium against continuation of proceedings against the 1st defendant as per order dated 29.10.2019 in CP (IB) No.214/BB/2019. Hence the proceedings against the 1st defendant cannot continue and as such, the question of impleading the proposed defendant does not arise. Hence, the proposed defendant prayed to reject the application.

4. The only point arises for consideration is as to whether the petitioner is entitled to the relief prayed for?

5. **The Point:** - On 21.12.2018, the 1st respondent/applicant- SVC Co-operative Bank filed an application under S.19(1) of the Act before this Tribunal for recovery of the sum of ₹41,59,87,238/- from the defendants No.1 to 5 in the OA and by sale of schedule properties in the OA.

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Case Citation: (2026) ibclaw.in 374 DRT

6. According to the petitioner, the proposed defendant owes a sum of ₹16,12,89,543/- to the 1st respondent/1st defendant. Therefore, the proposed defendant is a proper and necessary party for the adjudication.

7. According to the proposed defendant, there is no relation between the petitioner/applicant bank and the proposed defendant has no obligations to the petitioner/applicant bank to make any payment on behalf of itself or behalf of the 1st respondent/1st defendant. Hence, the proposed defendant is neither proper nor necessary party to the proceedings.

8. Admittedly, the proposed defendant is not a party to the loan transactions involved in the OA nor had executed any documents in favour of the petitioner/applicant bank. The petitioner could not produce the audit balance sheet and acknowledgement of debt with this IA before this Tribunal to show the proposed defendant owes a sum of ₹16,12,89,543/- to the 1st respondent/1st defendant. Therefore, it is not possible to understand as to how he is a proper and necessary party to the proceedings in the OA to adjudicate the lis between the petitioner/applicant bank and 1st respondent/1st defendant.

9. The Hon'ble High Court of Kerala in *Joseph v. State of Kerala [reported in 2018(1) KLT 757]* has distinguished the word 'necessary party' and 'proper party' and held that even in a case where the relief sought for in an application filed under O.1 R.10 (2) of the Code is not opposed, the discretion of the Court can be exercised only if such person is found to be a 'proper party' or a 'necessary party' to the suit.

10. It may be noted that no relief as against the proposed defendant has been sought in the OA by the petitioner/applicant bank. It may be noted that the Tribunal established under the provisions of the special Act has no jurisdiction and power to look into such matter and adjudicate the right claimed.

11. It is noticed that except making a bald statement that the proposed defendant is liable to pay certain amounts to the defendant No.1, the applicant bank has not produced

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Case Citation: (2026) ibclaw.in 374 DRT

any documentary material whatsoever to substantiate such assertion. No agreement, acknowledgment, assignment, decree, admission of liability, correspondence, or any other material has been placed on record to establish either the alleged debt due from the proposed defendant to defendant No.1 or any enforceable right of the applicant bank over such alleged receivables. Mere assertion that a third party owes money to defendant No.1 does not ipso facto make such third party either a necessary or proper party to the recovery proceedings initiated by the bank against its borrowers/guarantors. In absence of prima-facie material showing nexus between the proposed defendant and the subject matter of the OA, the impleadment cannot be permitted.

12. In the above circumstances and in view of the discussions as above, this Tribunal is of the firm view that the applicant bank has failed to make out any case and thus liable to be dismissed.

ORDER

13. In the result, IA.No.1282/2019 in OA.No.1804/2018 is dismissed.

(Dictated to the Typist, directly to the computer and after necessary corrections, signed and pronounced by me in the Open Tribunal on this the 30th day of January, 2026)

1.5.26

(IMTIAZ ALI)
Presiding Officer
DRT-I, Bengaluru

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IN THE DEBTS RECOVERY TRIBUNAL-1,
KARNATAKA AT BENGALURU

PRESENT: SRI IMTIAZ ALI
PRESIDING OFFICER

Dated the 7th day of May, 2026

Interlocutory Application No.1282/2019
IN
Original Application No.1804/2018

Between
SVC Co-operative Bank Limited,
deemed to be registered under the
Multi-State Cooperative Societies Act,
2002, having its registered office at
Mumbai and branch among other places
at KSSIDC building, 5th Cross, 1st Stage,
Peenya Industrial Area, Bangalore,
Karnataka- 560058. ...Petitioners

And
UNITEX APPARELS PRIVATE LIMITED,
A private limited company incorporated
Under the provisions of the
Indian Companies Act, 1956
And having its office at No.24,
Pete Channappa Industrial Estate,
Sumanahalli Circle, Magadi Main Road,
Kamashipalya, Bengaluru-560079
And another. .... Defendants

ORDER

7.5.26