

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

CP (IBC)/38/KOB/2025

(Under Section 7 of IBC, 2016, read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

Date of Institution:01.12.2025

Order Delivered on: 12.12.2025

In the matter of:

The South Indian Bank Ltd Vs M/s. Nellai Plantations Private Limited

MEMO OF PARTIES:

The South Indian Bank Ltd

SIB house, TB Road, Mission Quarters
Thrissur, Kerala – 680 001.

...Petitioner/Financial Creditor

-Vs-

M/s. Nellai Plantations Private Limited

II/286, Mundakayam, Kottayam,
Kerala – 686 513.

...Respondent/Corporate Debtor

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL

Appearances:

For the Petitioner

: Mr. K N Sivasankaran, Advocate

For the Respondent/Corporate Debtor: Ms. Vijayakumari R, Advocate



ORDER

1. The Petitioner/Financial Creditor, the South Indian Bank, has filed the present petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (CIRP), declaring moratorium and for appointment of Interim Resolution Professional (IRP), against the Corporate Debtor, **M/s. Nellai Plantations Private Limited**.
2. Part I of the petition sets out the details of the Financial Creditor from which it is evident that the Financial Creditor is registered under the Companies Act, 1956, as a banking company and regulated by the RBI. As per Part II of the application, the Corporate Debtor is a Private Limited Company with Corporate Identification Number: U15499KL1990PTC005576 and having its registered office at II/286, Mundakayam, Kottayam-686 513, Kerala, India. Therefore, this Bench has jurisdiction to deal with this petition.
3. As per Part III of the petition, the Financial Creditor has proposed the name of Mr Allen Bosco, IBBI Registration Number: IBBI/IPA-001/IP-P.02833/2023-2024/14351, as the Interim Resolution Professional. Part IV of the application signifies the amount of debt to the tune of Rs. 2,92,54,657.38/- (Rupees Two Crore Ninety-two lakh Fifty-four thousand six hundred fifty-seven and thirty-eight paise only) as on 10.11.2025.



4. Part V of the application describes the particulars of Financial Debt; documents, records and evidence of default as described below:

- i. Sanction Intimation Letter dated 20.11.2017 as Annexure 4.
- ii. Statement of Accounts for Cash Credit (CCAL) for the period 05.12.2017 to 11.11.2025, duly certified under the Bankers' Book of Evidence Act as Annexure 5.
- iii. Statement of Accounts for Term Loan (FSL Agri Loan) for the period 05.12.2017 to 11.11.2025, duly certified under the Bankers' Book of Evidence Act as Annexure 6.
- iv. Hypothecation of standing crops dated 13.11.2025 as Annexure 7.
- v. Credit Facility Agreements dated 24.11.2027 as Annexure 8 & 9.
- vi. Memorandum of Deposit of Title Deeds dated 23.11.2017 as Annexure 11.
- vii. Certificate of Registration/modification of charge dated 24.11.2017 filed on 03.02.2018 in respect of the Corporate Debtor with Registrar of Companies and available on the website of the 'Ministry of Corporate Affairs' as Annexure 12.
- viii. Sanction Intimation letter dated 18.06.2020, 02.06.2021, 30.05.2022 & 24.11.2023 regarding continuance of facilities as Annexure 13, 14, 15 & 16 respectively.
- ix. Acknowledgement of Debt and Security dated 06.05.2023 (CCAL Facility) as Annexure 17.
- x. Acknowledgement of Debt and Security dated 06.05.2023 (Term Loan FSL Agri Facility) as Annexure 18.



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- xi. Recall Notice dated 05.06.2025 along with the acknowledgement card as Annexure 19.
 - xii. SARFAESI Demand Notice dated 23.07.2025 as Annexure 25.
 - xiii. Record of Default as registered with the National E-Governance Services Ltd as Annexure 23.
 - xiv. Balance Sheet of the Corporate Debtor as on 31.03.2023, as Annexure 24.
 - xv. Demand Notice dated 23.07.2025 along with acknowledgement cards as Annexure 25.

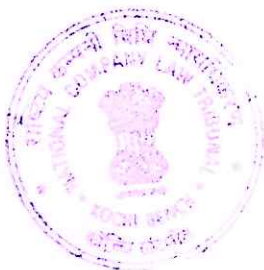
5. Facts of the case and submissions made by Ld. Counsel for the applicant:

- i. The Corporate Debtor, M/s. Nellai Plantations Private Limited was sanctioned a Cash Credit Agricultural Loan (CCAL) of Rs. 1,25,00,000/- and a Term Loan (FSL Agri Loan) of Rs. 1,50,00,000/-, both of which were disbursed on 06.12.2017. The credit facilities were, inter alia, secured by hypothecation of standing crops and mortgage of the Corporate Debtor's immovable property. The Corporate Debtor acknowledged its liability on 06.05.2023.
- ii. It is submitted that, due to the Corporate Debtor's default in repayment, the loan accounts were classified as Non-Performing Assets (NPA) on 21.05.2025, and the loan was consequently recalled. A recall notice dated 05.06.2025 was issued to the Corporate Debtor. Subsequently, securitisation measures were initiated by issuing a notice under Section 13(2) of the SARFAESI Act on 23.07.2025. Despite being



afforded multiple opportunities, the Corporate Debtor has failed to repay the amounts due to the Financial Creditor.

- iii. It is submitted that a total sum of Rs. 2,92,54,657.38 (Rupees Two Crore Ninety-Two Lakh Fifty-Four Thousand Six Hundred Fifty-Seven and Paise Thirty-Eight Only) is due and payable by M/s. Nellai Plantations Private Limited, as on 10.11.2025, together with further interest and other applicable charges from 07.11.2025 onwards, in respect of the Cash Credit (CCAL) facility and the Term Loan (FSL Agri Loan), until realisation of the entire outstanding dues.
- iv. It is stated that as on 10.11.2025, Corporate Debtor is in default of Rs. 2,92,54,657.38/- under the Cash Credit (CCAL) loan and for the Term Loan (FSL Agri Loan) account, and the date of default is on 29.03.2025. The Petitioner has submitted the default with NeSL information utility on 21.05.2025. The debt is above the threshold limit of 1 crore under IBC, 2016, and the jurisdiction falls within this Tribunal.
- v. Since no action to settle the debt has been made by the Corporate Debtor, the Financial Creditor proceeds under IBC, 2016, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor.
- vi. The petition was filed by the Financial Creditor on 01.12.2025 and states that the petition is filed within the period of limitation under the IBC, 2016.



Submissions on behalf of the Respondent: -

6. The Respondent/Corporate Debtor filed its reply on 08.12.2025, contending that the present application is wholly misconceived in law, frivolous, and incomplete in terms of Section 7(2) of the Insolvency and Bankruptcy Code, 2016, and therefore liable to be rejected.
7. It is stated that one Mr. Alexander K. M., S/o K. M. Mathew, in his capacity as Managing Director, incorporated a company in 1990 under the name and style of *Fashion Foods Private Limited*, engaged in the production and sale of food items. Subsequently, on 06.07.2007, the company's name was changed to *Nellai Plantations Private Limited*. The company is engaged in agricultural activities and manages plantations of various fruits such as guava, pineapple, banana, tender coconut, multiple varieties of mango, gooseberry, dragon fruit, sapota, pomegranate, cashew, etc., spread over approximately 84 acres of land. It is contended that the entity is not a commercial company.
8. The Respondent submitted that its continued operation as a going concern would be adversely affected by any change in management due to the unique environmental characteristics of the plantation. It is claimed that the Respondent's land constitutes a significant biodiverse area, consisting of plant species collected from various parts of the world after extensive study of their ecological vulnerabilities. The Managing Director is said to possess specialised expertise essential for maintaining this biodiversity-based theme park. The plantation is described as a biodiversity hotspot rich in fruit-bearing species and other biological resources, including animals, birds, fish, and



microorganisms, and also houses animal husbandry activities such as cattle, goat, rabbit, and duck farming.

9. It is stated that the trees cultivated in Nellai Plantation are rare and valuable, and their preservation is essential at a time when the younger generation is increasingly disconnected from the natural environment. The Respondent further submitted that it has trained and deployed 50 workers who possess substantial knowledge of the rare trees and plants within the plantation.
10. It is also contended that, since the plantation is located in Tamil Nadu, the present application is not maintainable before the NCLT, Kochi Bench.
11. The Respondent submitted that the application is not maintainable as no demand notice was issued to it under Sections 8 and 9 of the IBC, 2016. It is submitted that the Financial Creditor did not serve any notice acknowledging the alleged debt as required under the Code, and that the Respondent came to know of the claimed dues only through the present application. The Respondent further stated that earlier recall and demand notices were issued by the sanctioning authority in Madurai under the SARFAESI Act, not by the present applicant and not under the IBC, 2016. Those notices were duly replied to under Section 13(3) of the SARFAESI Act, and no further notice was issued thereafter under the IBC. The Respondent therefore asserted that the alleged dues do not fall within the definition of "operational debt." It is also claimed that certain details furnished by the Financial Creditor in the application are incorrect or incomplete, and that the Respondent owns



only 55 acres of land; hence, the IBC proceedings cannot extend to the entire property described in the application.

FINDINGS & ANALYSIS:

12. Have heard both sides and have perused the records. At the time of the final hearing, counsel for both parties argued, and the arguments have been reproduced in the order dated 09.12.2025:

"CP(IBC)/38/KOB/2025

Learned Counsel Mr. Sunil Shankar appears physically on behalf of the Petitioner. Learned Counsel Ms. Vijayakumari R appears physically on behalf of the respondent.

Reply affidavit filed by the respondent is taken on record.

With the concurrence of both sides, the case is taken up for final hearing.

Counsel for the Petitioner submitted that the Corporate Debtor, after availing the Credit facilities from Petitioner/FC and committed default. Consequently, the Petitioner issued notice under Section 13 of the SARFAESI Act. Despite the said notice respondent has failed to repay the due to the Bank. Petitioner has filed this Petition under Section 7 to initiate the CIRP Process on account of debt and default for initiation of Insolvency Process under Section 7 of IBC. Same may be allowed.

Whereas, Counsel for the respondent submitted that no demand notice was issued enforcing all the securities mentioned in this Petition. Further submitted that the Financial Creditor was required to issue a demand notice under Section 8 of IBC prior to initiating the Petition under Section 7, and failure to do so amounts to a violation of the principles of natural justice. It is further submitted that no notice was served on the respondent, and if such a notice had been issued, the respondent would have deposited the amount. It is also submitted that the amount claimed by the Financial Creditor is exorbitant. It is submitted that the Corporate Debtor is an agricultural firm, and that the demand notice was issued by the Madurai Branch of FC, whereas the



present Petition has been filed by their Ernakulam Branch, this Bench has no Jurisdiction to entertain this Application as securities are situated in Tamil Nadu.

Counsel for the Petitioner, in rebuttal, submitted that the recall notice dated 05.06.2025 has been issued and is produced as Annexure 19. It was further submitted that since the Company is registered in Kerala, the Petitioner has filed this Petition before this Bench.

Case heard. Reserved for Orders.

13. The Respondent has primarily questioned the jurisdiction of this Tribunal to entertain the present application. It is further contended by the Respondent that no notice of demand, as required under Sections 8 and 9 of the IBC, 2016, was ever issued to the Respondent, and that the Applicant has failed to obtain any acknowledgement of debt from the Respondent. It is also pleaded that the Respondent has only 55 acres of land in his name; therefore, proceedings under the IBC, 2016 cannot be initiated against the entire land.
14. Having heard both sides, there is no dispute regarding the execution of the loan documents, the availment of credit facilities, the default, the creation of security interest, or the process followed under the Securitisation Act. However, the Respondent/Corporate Debtor has raised a plea that, since the property is situated in Tamil Nadu and the demand notice was issued by the Madurai Branch, the Application under Section 7 of the IBC, 2016 is not maintainable against the Respondent before the NCLT, Kochi Bench.
15. It would be appropriate to refer to the relevant provisions of Section 60(1) of the IBC, 2016.



“60. Adjudicating authority for corporate persons. - (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.”

16. The Bench under whose jurisdiction the registered office of the Company/Corporate Debtor is situated has the authority to entertain an Application under Section 7 of IBC, 2016. Admittedly, the Respondent/Corporate Debtor has its registered office in Kottayam, and therefore, the Application filed under Section 7 of the IBC, 2016 is well maintainable before the NCLT, Kochi Bench. For the purpose of determining jurisdiction to entertain an application under Section 7 of the Insolvency and Bankruptcy Code, 2016, the location of the assets or the mortgaged property is irrelevant. Likewise, the issuance of a demand notice by any particular branch does not confer jurisdiction upon that branch to initiate the insolvency process. Jurisdiction is determined solely by the location of the registered office of the Corporate Debtor. Hence, there is no error in choosing the jurisdiction of the NCLT, Kochi Bench.
17. It is further argued that no demand notice was issued to the Corporate Debtor in terms of Sections 8 and 9 of the IBC, 2016. The Applicant has placed on record the demand notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which is annexed as Annexure 25 at page 239 of this Petition. The issuance and receipt of the said notice have not been denied.



18. During the course of arguments, the Learned Counsel for the Respondent submitted that after the demand notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Respondent had made certain payments. It appears that the Respondent has misconceived the provisions of the IBC, 2016. Sections 7 and 9 of the IBC, 2016 are distinct provisions operating for different categories of creditors. The notice under Section 8 of the IBC, 2016, is required only for initiating proceedings under Section 9 of the IBC, 2016. There is no requirement to issue a notice under Section 8 of the IBC, 2016, for the initiation of proceedings under Section 7 of the IBC, 2016.
19. Section 7 of the IBC, 2016, deals with financial debts, whereas Sections 8 and 9 deal with operational debts. The learned Counsel for the Respondent vehemently argued that, as there was no demand notice, there was a breach of the principles of natural justice. However, the fact remains that the Financial Creditor has issued a demand notice, annexed as Annexure 25, and it appears that the Respondent has misunderstood the provisions of the IBC, 2016. The Respondent has taken the defence of non-issuance of a demand notice under Section 8 of the IBC, 2016, although no such notice is required to be issued under Section 7 for initiating the Corporate Insolvency Resolution Process (CIRP). Such a defence is therefore untenable.
20. The present proceedings are for the initiation of the CIRP and are not meant for the recovery of dues or enforcement of securitisation measures. Consequently, the other defences raised by the Respondent are also not tenable.



21. The Applicant has duly proved, on record, the existence of debt and default under Section 7 of the IBC, 2016. The amount claimed is more than Rupees 1 crore, which is the threshold as per Section 4 of IBC, 2016. The loans sanctioned constitute a financial debt within the meaning of Section 5(8) of the Code, being disbursal against consideration for the time value of money.
22. Petitioner has placed on record a recall notice dated 05.06.2025 and a notice issued under section 13(2) of the SARFAESI Act, 2002, dated 23.07.2025. The claim is within the limitation period calculated from the date of execution of the loan documents and commission of default, and the respondent has failed to respond to the date of default as reported to NeSL. The financial debt exceeds the threshold limit of Rupees 1 Crore. Accordingly, this Adjudicating Authority is satisfied that a financial debt exists, and the Corporate Debtor has committed default in repayment, and finds no legal impediment to initiate the process under section 7 of IBC against the respondent on the default reported by the Petitioner against the respondent based on the material available on record.
23. In light of the above facts and circumstances, it is hereby ordered as follows: -
 - i. The Petition bearing **CP(IBC)/38/KOB/2028** filed by the South Indian Bank Limited, the Petitioner/Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **M/s. Nellai**



Plantations Private Limited, the Respondent/Corporate Debtor, is hereby **ADMITTED**.

- ii. There will be a moratorium under section 14 of the Code.
- iii. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.
- iv. Public announcement of the CIRP shall be made immediately as specified under Section 13 of the code, read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016.
- v. The Financial Creditor has proposed the name of one **Mr. Allen Bosco, IBBI Registration Number: IBBI/IPA-001/IP-P-02833/2023-2024/14351**, residing at Thekkel (H), BNRA8, Bosco Nagar, Nadathara P O, Thrissur, Kerala-680751, Email id: allenbosco25@gmail.com, as Interim Resolution Professional (IRP). He had filed his written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him with the Board or the Indian Institute of Insolvency Professionals of ICAI. In addition, further necessary disclosures have been made by Mr. Allen Bosco as per the requirements of the IBBI Regulations.



Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint **Mr. Allen Bosco** as the IRP of the Respondent/Corporate Debtor.

- vi. The IRP shall carry out his functions as contemplated by sections 15 to 21 of the Code.
- vii. During the CIRP period, the management of the Corporate Debtor shall vest with the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow.
- viii. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- ix. The Petitioner/Financial Creditor shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).
- x. In terms of section 7 (7) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial Creditor, the corporate debtor and IRP by Speed Post & e-mail immediately, and in any case, not later than two days from the date of this order.



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- xi. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this order.
- xii. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
24. The Registry is directed to send e-mail copies of this order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
25. Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
26. File be consigned to records.


Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 12th day of December, 2025.

JL/Steno



Certified to be True Copy-


Asst. Deputy Registrar
National Company Law Tribunal
Kochi Bench