IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 06TH DAY OF FEBRUARY 2020 / 17TH MAGHA, 1947

WP(C).No.1890 OF 2020(I)

PETITIONER:

PRADIP KUMAR K.B.
AGED 39 YEARS
S/O. C.C.BALAN, PROPRIETOR, SUN ROOFING,
PANAMPALLAM, NATTUKAL, CHITTUR, PALAKKAD,
RESIDING AT KANNALATH HOUSE, NATTUKAL POST,
KOZHINJAPARA, PALAKKAD-678 554.

BY ADV. SRI.LIJU. M.P

RESPONDENTS:

1 **THE KERALA FINANCIAL CORPORATION**
HEAD OFFICE, VELLAYAMBALAM,
THIRUVANANTHAPURAM-695 035,
REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR.

2 **THE BRANCH MANAGER**
THE KERALA FINANCIAL CORPORATION,
IST FLOOR,CENTURY COMPLEX, MATHA KOIL ST.
SULTANPET, PALAKKAD-678 001.

ADV. SRI.M.R.VENUGOPAL
ADV. SMT.DHANYA P.ASHOKAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed seeking the following prayers:

> *"(i) issue writ of mandamus or any other appropriate writ or order or direction, declaring that the taking over the possession of the petitioner's business unit on 16.01.2020, without notice, by the respondents is illegal and arbitrary.*
>
> *(ii) issue writ of mandamus or any other appropriate writ or order or direction, allow the petitioner to clear the overdue amount towards the loan by easy monthly installments and regularize the loan and keep in abeyance the coercive proceedings therein till then;*
>
> *(iii) issue writ of mandamus or any other appropriate writ or order or direction, directing the respondents to return the possession of the 'unit', Roofing Sheet Profiling and Crimping unit, in the name and style 'Sun Roofing', situated in Re-sy No.365/17, 18B No.35 of Valiya Vallampathy Village, Chittur, Palakkad to the petitioner at the earliest;"*

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the KFC.

3. It is submitted by the learned counsel for the petitioner that the petitioner has availed financial assistance from the KFC, but was unable to make the repayments in instalments as required by them. It is stated that it was only due to the financial stringency that the petitioner

was unable to remit the amounts due and that on 16.01.2020, the unit of the petitioner has been taken over under Section 29 of the State Financial Corporations Act, 1951. It is stated that without the unit being functional, the petitioner will be completely disabled from meeting his financial liabilities including to the KFC and that there will be no purpose in keeping the unit under the possession of the respondents.

4. The learned counsel for the respondents submits that an amount of Rs.62.82 Lakhs is overdue on the account as on 23.01.2020 and that in case an amount of Rs.53 Lakhs is paid on or before 28.02.2020, the possession of the unit can be given back to the petitioner and the loan can be regularized.

5. Having considered the contentions advanced on either side and in specific view of the plea raised by the learned counsel for the petitioner with regard to financial stringency and the undertaking that the petitioner shall take all possible efforts to pay off the amounts due and to regularize the loan and continue the repayment, I am of the opinion that interest of justice will be met if there is a direction to the respondents to accept an amount of Rs.25 Lakhs as payment for the restoration of the unit to the petitioner. In case an amount of Rs.25 Lakhs is remitted before the respondents on or before 15.03.2020, the possession of the unit shall be handed over to the petitioner. The petitioner shall

make a further payment of Rs.25 Lakhs on or before 01.06.2020. Thereafter, if the petitioner makes a request for regularization of the loan account, the same will be appropriately considered by the respondents. In case the petitioner makes the remittances as directed above, all coercive proceedings against the petitioner by the respondents shall be kept in abeyance. However, it is made clear that if there is a default committed, the recovery proceedings can go on.

This writ petition is ordered accordingly.

Sd/-

ANU SIVARAMAN

JUDGE

np

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE PROVISIONAL STATEMENT OF ACCOUNTS IN 080219811.**
EXHIBIT P2	**TRUE COPY OF THE PROVISIONAL STATEMENT OF ACCOUNTS IN 080219891.**
EXHIBIT P3	**TRUE COPY OF THE PROVISIONAL STATEMENT OF ACCOUNTS IN 080219810.**
EXHIBIT P4	**TRUE COPY OF THE LAWYER NOTICE DATED 20.5.19.**
EXHIBIT P5	**TRUE COPY OF THE AGREEMENT DATED 13.12.19 ENTERED INTO BETWEEN THE PETITIONER AND PROPRIETOR OF 'HIGHTECH ROOFS'.**

RESPONDENT'S/S EXHIBITS: NIL