
(2025) 12 KL CK 1912
In the High Court Of Kerala
Case No : Writ Petition (C) No.44800 Of 2025

K.H Faisal

APPELLANT

Vs

Regional Manager, Bank Of Baroda

RESPONDENT

Date of Decision : 11-12-2025

Acts Referred:

Citation : (2025) 12 KL CK 1912

Hon'ble Judges : M.A.Abdul Hakhim, J

Bench : Single Bench

Advocate : N.Anilkumar, K.R.Rajagopalan Nair, Deepa Devi C., K.C.Gayathri, K.Anand

Final Decision : Allowed

Judgement

M.A.Abdul Hakhim, J

1. The Petitioners, who are two in number, have filed this Writ Petition seeking direction to the Respondent/Bank to close the loan account of a private limited company by the name, M/s. Messwaala Enterprise Private Limited, which is sanctioned as per Ext.P3, after accepting the outstanding amount, and to issue NOC to HDFC Bank, which has sanctioned a new loan of Rs.2.20 Crores to the said Company as per Ext.P4. The Petitioners claim that Messwaala Enterprise Private Limited is a startup company promoted by them, and they are the directors of the said company.

2. The case of the Petitioners is that Messwaala Enterprise Private Limited availed a Term Loan of Rs.60,00,000/-and an Overdraft facility of Rs.40,00,000/- from the Respondent/Bank. They are the guarantors of the said loans. When they required an additional loan for the expansion of their business, they approached the Respondent/Bank by submitting the necessary application. Since the Respondent/Bank did not sanction the additional loan, Messwaala Enterprise Private Limited approached the HDFC Bank, and the HDFC Bank has sanctioned a Cash Credit loan of Rs.2.20 Crores on the personal guarantees of the Petitioners.

Messwaala Enterprise Private Limited produced the Demand Drafts issued by the HDFC Bank out of the said loan for closure of the loan account with the Respondent/Bank. But the Respondent/Bank refused to close the loan account, insisting on closure of the loan availed by another Company promoted by the Petitioners by the name, Fasusa Private Limited. Hence, the Petitioners have filed this Writ Petition.

3. The Respondent/Bank has filed a Counter Affidavit opposing the prayers in the Writ Petition.

4. The Petitioners have filed the I.A. No.1/2025, producing certain additional documents, and the Respondent/Bank has also filed I.A. No.2/2025 for receiving certain additional documents.

5. I heard the learned Counsel for the Petitioners, Sri. Anikumar N., and the learned Counsel for the Respondent/Bank, Sri. K. Anand.

6. The learned Counsel for the Petitioners invited my attention to Ext.P4 Sanction Letter issued by the HDFC Bank granting Cash Credit loan of Rs.2.20 Crores. One of the conditions for the disbursement of the loan is the closure of the loans from the Respondent/Bank. The Respondent/Bank illegally rejected the request of Messwaala Enterprise Private Limited for closing the loan, as per Ext.P7, on untenable reasons. The loan granted to Fasusa Private Limited is sufficiently secured by collateral security by the creation of mortgage over immovable properties belonging to one of its directors. There could not be any prejudice to the Bank on account of the closure of the loan availed by Messwaala Enterprise Private Limited. It would only improve the recovery position of the Bank as the entire loan liability of one of the companies is settled. The Respondent/Bank cannot restrict the right of the borrower to avail a loan from any other Bank when better benefits are available to them. The Petitioners were compelled to approach the HDFC Bank since the Respondent refused to extend an additional loan for the expansion of their business. The learned Counsel further contended that the Respondent/Bank relied on Ext.R1(a) Circular issued by the RBI, which is not applicable to the case on hand, as the same is applicable only to large exposure framework, which would be equal to or above 10% of the Bank's eligible capital base.

7. On the other hand, the learned Counsel for the Respondent/Bank contended that the Petitioners have no locus standi to file this Writ Petition, as Messwaala Enterprise Private Limited is the borrower. The Ext.P9 Agreement produced by the Petitioners themselves would reveal the close operational and financial connection between the aforesaid two companies, and the aforesaid two companies have to be treated as connected counterparties within the meaning of Ext.R1(a) Circular. Both Messwaala Enterprise Private Limited and Fasusa Private Limited are group companies. They are to be treated as a single borrower. As per RBI guidelines, the closure of one of the loans belonging to such a single borrower could not be permitted. It would adversely affect the recovery position

of the Bank. It will prejudice the Bank's credit exposure in the account. As per the Ext.P3 Loan Sanction Letter, when the borrower requires additional funds, the borrower has to make an application and wait for the reply of the Bank for a period of 60 days, and without waiting the said period, Messwaala Enterprise Private Limited approached HDFC Bank and obtained the loan. It is in violation of Clauses 7(e), (k) and (m) of Ext.P3 Loan Sanction Letter, which mandates permission of the Respondent/Bank before obtaining a loan from any other entity. Ext.R1(B), prepared at the time of granting the loan to Messwaala Enterprise Private Limited, would show that the loan was granted to Messwaala Enterprise Private Limited, treating the said company as a group company of Fasusa Private Limited. In such cases, it is not permissible for Messwaala Enterprise Private Limited to close one of the loans availed by the group companies. The Respondent/Bank is legally justified in refusing the closure of the loan. Even now, the Respondent/Bank is ready to close the loan if the loan taken by Fasusa Private Limited is closed.

8. I have considered the rival contentions.

9. From the admitted facts, it is clear that Fasusa Private Limited availed a Term Loan of Rs.60,00,000/- and an Overdraft facility of Rs.40,00,000/- from the Respondent/Bank on 02.01.2023 as per Ext.P10 Sanction Letter. Ext.P10 would show that Fasusa Private Limited had furnished security for the said loan by creating mortgage of two immovable properties and hypothecation of movables and by submitting personal guarantees of its three directors and other security documents. Later, a Term Loan of Rs.60,00,000/- and an Overdraft facility of Rs.40,00,000/- were granted to M/s. Messwaala Enterprise Private Limited as per Ext.P3 Sanction Letter on 16.12.2024. The Petitioners are the common directors in both Companies. Fasusa Private Limited is having another director who offered the collateral security for the loan availed by Fasusa Private Limited. The Ext.P9 Agreement would show the working arrangement between the two companies. Ext.R1(B) Communication addressed to the Chief Manager of the Respondent/Bank was prepared for the purpose of providing a loan to Messwaala Enterprise Private Limited. It shows that the loan was granted to Messwaala Enterprise Private Limited as a group company of Fasusa Private Limited. On account of these facts, it could be held that both companies are group companies.

10. The question is, is it permissible for one of the group companies to close the loan without closing the loan of the other group companies. Even though the learned Counsel for the Respondent/Bank relied on Ext.R1(a) Circular, as rightly pointed out by the learned Counsel for the Petitioners, the said Circular is applicable only to the large exposure framework. The 'large exposure' is defined in Clause 4 therein. It would show that large exposure is equal to or above 10% of the Bank's eligible capital base. The purpose of the said Circular is to avoid concentration of assets of the Bank in a single counterparty or in a group of connected counterparties. It deals with the limitation of the Banks to lend to a single borrower, risking the capital of the Banks. It is intended to ensure the

financial stability of the Banks. The subject loan is not a large exposure, and hence Ext.R1(a) Circular is not applicable. Since Ext.R1(a) Circular is not applicable to the case on hand, the definition of connected counterparties in Ext.R1(a) Circular has no relevance in this case. The learned Counsel could not point out any guideline of RBI which mandates that when loans are availed by different companies forming a group of companies, one of the companies cannot close the loan without the closure of the loan by the other companies.

11. The learned Counsel for the Respondent/Bank relied on Clauses 7(e), (k) and (m) in Ext.P3 Sanction Letter, which prevents the borrower from availing any other financial assistance during the currency of the loan from any other entity without the permission of the Respondent/Bank. I am of the view that those clauses are not available to prevent the borrower from obtaining a loan from any other entity for closing the loan from the Respondent/Bank. Those clauses are applicable only if the borrower continues with the loan and avails financial assistance from any other entity. When better benefits are available to the borrower, it is at the discretion of the borrower to avail financial assistance from any other Bank, so long as it does not violate any of the contractual terms or RBI Circular. Even before this Court, the Respondent/Bank has no case that it is ready to provide additional loan required by Messwaala Enterprise Private Limited. In such a case, Messwaala Enterprise Private Limited is fully justified in approaching HDFC Bank, which sanctioned the loan. Messwaala Enterprise Private Limited is utilizing a part of the loan granted by HDFC Bank to close the loan availed from the Respondent/Bank.

12. The next contention of the learned Counsel for the Respondent/Bank is that the closure of one of the loans by one of the Group Companies is prejudicial to the credit exposure of the Bank. Going by Exts.P3 and P10 Sanction Letters, it is clear that the security furnished for the loan availed by Fasusa Private Limited is stronger than the security furnished for the loan of Messwaala Enterprise Private Limited. There is no mortgage security for the loan of Messwaala Enterprise Private Limited. The Respondent/Bank will not be benefited in any way by retaining the security furnished for the loan of Messwaala Enterprise Private Limited, for the loan availed by Fasusa Private Limited. There will not be any decrease in security. The Respondent/Bank will only be benefited from the closure of the loan of Messwaala Enterprise Private Limited, which is not having much security, since the liability of the group companies is reduced. Hence, the contention of the learned Counsel for the Respondent/Bank that the Bank will be prejudiced on closure of the loan account by Messwaala Enterprise Private Limited is unsustainable.

13. The learned Counsel for the Respondent/Bank challenged the locus standi of the Petitioners to file the Writ Petition. Admittedly, the Petitioners are the only directors of Messwaala Enterprise Private Limited. They are the guarantors of the loan, which is the subject matter of the Writ Petition. Hence, they can very well maintain the Writ Petition even without M/s. Messwaala Enterprise Private

Limited on the party array.

14. In view of the aforesaid discussion, this Writ Petition is allowed, directing the Respondent/Bank to accept the outstanding loan amount with respect to Ext.P3 loan from M/s. Messwaala Enterprise Private Limited and issue NOC to HDFC Bank to enable M/s. Messwaala Enterprise Private Limited to avail the loan sanctioned as per Ext.P4, within a period of two weeks from the date of receipt of a copy of this judgment.