

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 28TH DAY OF APRIL, 2020/8TH VAISAKHA, 1942

W.P(C) TMP NO.166 OF 2020

PETITIONER:

MGF MOTORS LTD,
HAVING ITS REGISTERED OFFICE AT
BUILDING NO.24/1807,
WILLINGDON ISLAND, MATTANCHERY HALT,
ERNAKULAM - 682029
REPRESENTED BY ITS DIRECTOR, MR. UMESH MOHANAN
BY ADVS. SRI. P.FAZIL,
SMT.JAYASREE MANOJ,
SRI.SAJU THALIATH,
SRI.V.S. SREEJITH,
SRI. JITHIN PAUL VARGHESE
AND SMT. ANN MARY FRANCIS

RESPONDENTS:

1. ICICI BANK LTD,
ZONAL OFFICE, 2ND FLOOR,
PUSHPAMANGALAM ESTATE,
EDAPPALLY - PIN: 682024
REPRESENTED BY ITS ZONAL MANAGER
2. ICICI BANK LTD,
EDAPPALLY BRANCH,
B.M COMPLEX, EDAPPALLY,
KOCHI. PIN: 682024.
REPRESENTED BY ITS BRANCH MANAGER
3. AUTHORISED OFFICER,
ICICI BANK LTD,
EDAPPALLY BRANCH,
B.M COMPLEX, EDAPPALLY,

KOCHI. PIN: 682024

4. RESERVE BANK OF INDIA,
KERALA STATE BRANCH, BANERJI ROAD,
ERNAKULAM NORTH,
KALOOR, KOCHI. PIN: 682018.
REPRESENTED BY ITS GENERAL MANAGER

BY SRI. LAL K JOSEPH, SC, ICICI
BY SRI. MILLU DANDAPANI, SC, RBI

THIS WRIT PETITION (CIVIL) TMP HAVING COME UP FOR ADMISSION ON
28.04.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Heard the learned counsel for the petitioner, the learned counsel for the 4th respondent and the learned counsel for respondents 1 to 3. In the nature of the submissions that have been made, I deem it appropriate to dispose of the writ petition.

2. The writ petition is filed challenging the classification of petitioner's inventory funding account as a non performing asset on account of default in payment of amounts due to the bank. Contention of the petitioner is that the period of lock down cannot be counted for the purpose of declaring an account as NPA, since lock down period is a period of moratorium declared by the Reserve Bank of India. Lock down was declared on 24.03.2020 and as on date continues till 03.05.2020.

3. In the facts and circumstances of the case and in view of the peculiar situation prevailing in the country, I deem it just and proper to direct that, respondents 1 to 3, while contemplating on deciding to classify petitioner's account as a non performing asset, the period during which lock down was declared by the Central Government be excluded. For the purpose of better clarity and convenience of all, I feel that the period from 1st March, 2020 till 31st May, 2020 be excluded for calculating the period for declaring an

account as NPA. This period is being stipulated on account of the fact that it may take some time for any establishment to revive after the period of lock down. Unless such a benefit is granted, it may result in triggering a vicious cycle of financial hardships for all.

The writ petition is disposed of as above.

**BECHU KURIAN THOMAS
JUDGE**

BNG

APPENDIX**PETITIONER'S/S' EXHIBITS:**

- EXT.P1 TRUE COPY OF SANCTION LETTER NO.010251005150/ MGF5150/ 1912030080/ RENEWAL DATED 28.2.2020 ISSUED BY THE 1ST RESPONDENT BANK
- EXT.P2 TRUE COPY OF LETTER DATED 27.3.2020 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT
- EXT.P3 TRUE COPY OF STATEMENT ON DEVELOPMENT AND REGULATORY POLICIES DATED 27.3.2020 ISSUED BY THE 4TH RESPONDENT RESERVE BANK OF INDIA
- EXT.P4 TRUE COPY OF THE MAIL DATED 8.4.2020 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT BANK
- EXT.P5 TRUE COPY OF THE MAIL DATED 8.4.2020 ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER
- EXT.P6 TRUE COPY OF THE MAIL DATED 9.4.2020 ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER
- EXT.P7 TRUE COPY OF THE MAIL DATED 16.4.2020 ISSUED BY THE 1ST RESPONDENT BANK TO THE PETITIONER
- EXT.P8 TRUE COPY OF LETTER DATED 16.4.2020 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT
- EXT.P9 TRUE COPY OF THE STATEMENT ISSUED BY GOVERNOR OF 4TH RESPONDENT RESERVE BANK OF INDIA ON 17.4.2020
- EXT.P10 TRUE COPY OF CIRCULAR VIDE DOR NO. BP.BC.63/21.04.048/ 2019-20 DATED 17.4.2020 ISSUED BY 4TH RESPONDENT RESERVE BANK OF INDIA
- EXT.P11 TRUE COPY OF COVID-19 REGULATORY PACKAGE DATED 27.3.2020 ISSUED BY 4TH RESPONDENT AS PER CIRCULAR NO. DOR NO. BP.BC.47/21.04.048/2019-20
- EXT.P12 TRUE COPY OF ORDER DATED 6.4.2020 OF THE HON'BLE HIGH COURT OF DELHI IN W.P (C) URGENT 5 /2020 (*ANANT RAJ LIMITED V. YES BANK LIMITED*)
- EXT.P13 TRUE COPY OF ORDER DATED 11.4.2020 OF THE HON'BLE HIGH COURT OF MUMBAI IN WRIT PETITION NO. LD-VC NO. 30 OF 2020 (*TRANSCON SKY CITY PVT LTD &ORS V. ICICI BANK &ORS*)

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RESPONDENT'S/S' EXHIBITS:

NIL

/TRUE COPY/

VPS

PS TO JUDGE