



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 25TH DAY OF MAY 2026 / 4TH JYAISHTA, 1948

WP(C) NO. 97 OF 2025

PETITIONER:

K.N. MARZOOK
AGED 66 YEARS
S/O LATE CK KASMI, RATNAPURI, ERG ROAD, ERNAKULAM,
KERALA, PIN - 682014

BY ADVS.
SMT.MARIYA RAJAN
SRI.SHINU J.PILLAI
SMT.S.SUJA
SMT.ANN MARIYA JOHN

RESPONDENTS:

- 1 DHANLAXMI BANK LIMITED
DHANLAXMI BUILDINGS (FIRST FLOOR) NEAR A.R CAMP OFFICE
MARINE DRIVE, ERNAKULAM, KERALA, REPRESENTED BY ITS
GENERAL MANAGER, PIN - 682031
- 2 C.A RAJMOHAN R
RESOLUTION PROFESSIONAL, RAHBHAVAN, H S 514/12/LAND
175A, KRISHNAPURAM, 6TH STREET, OLLUKKARA P.O,
KRISHNAPURAM TEMPLE, THRISSUR, KERALA, PIN - 680655
- *3 M/S REAL VIDEO IMPACT PVT LTD (CORRECTED)
REPRESENTED BY LIQUIDATOR MR. RAJU PALANIKUNNATHIL
KESAVAN, CGNRA-9 (33/1183A) KODAMASSERYLANE,
CHALIKKAVATTOM, VENNALA P.O.KOCHI, PIN - 682028

THE ADDRESS OF R3 IS CORRECTED AS
M/S. REAL VIDEO IMPACT PVT LTD REPRESENTED BY ITS
LIQUIDATOR, MR JASIN JOSE, PONMATTAM MADASSERY HOUSE,



MOOKKANNOOR PO, ERNAKULAM, KERALA-683577, AS PER ORDER
DATED 18-03-2025 IN IA 1/25 IN WPC 97/2025

BY ADVS.
SHRI.C.K.KARUNAKARAN
SRI.A.C.VENUGOPAL
SHRI.AKHIL SURESH
SRI.K.V.KRISHNAKUMAR
SMT.LEKSHMI P. NAIR
SMT.SHIFNA MUHAMMED SHUKKUR
SMT.KRISHNA SURESH
SMT.MEKHA MANOJ
SMT.VIDHYA. A.C
SMT.KALLIYANI KRISHNA B.
SHRI.AMRITH M.J.
SMT.ISABELL MANOJ
SHRI.RAHUL T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25.05.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**“C.R.”****JUDGMENT**

The petitioner has filed the captioned writ petition seeking to challenge Ext.P13 issued by the National Company Law Tribunal (NCLT), Delhi. The petitioner states that the 3rd respondent herein obtained some credit facilities from the 1st respondent herein, of which the petitioner was the personal guarantor. The 1st respondent has initiated proceedings under the provisions of Section 95 of the Insolvency and Bankruptcy Code, 2016 (for short the 'IBC') before the NCLT, Delhi, read with provisions of Section 60 of the IBC. The petitioner states that in Ext.P1, the name of one Mathew George was shown as a personal guarantor, as against the petitioner herein. The 1st respondent bank, when it came to realise this error/mistake, sought to rectify the name of the personal guarantor in Ext.P1 application, and the order at Ext.P3 dated 05.12.2023 has been issued by the NCLT, permitting the 1st respondent herein a weeks' time to make the necessary changes. The petitioner further avers that on the basis of the



afore, it is only when the NCLT issued the order at Ext.P6 dated 23.01.2024, the petitioner comes into the picture, when the petitioner's name is shown as the personal guarantor for the first time. Ultimately, by the impugned order at Ext.P13 dated 10.12.2024, the NCLT permitted initiation of the personal insolvency proceedings against the petitioner herein. It is seeking to challenge Ext.P13 as above that the petitioner is before this Court through the captioned writ petition.

2. Heard Sri.Shinu J.Pillai, the learned counsel for the petitioner, as well as Sri.C.K. Karunakaran, the learned Standing Counsel for the 1st respondent bank.

3. A statement has been filed on behalf of the 1st respondent herein, essentially seeking to challenge the maintainability of this writ petition, with reference to Article 226(2) of the Constitution of India, as well as contending that if at all the petitioner requires to challenge Ext.P13 order, the petitioner has an alternate remedy.



A reply affidavit has also been filed by the petitioner.

4. The first question arising for consideration in this writ petition is as to whether the writ petition is maintainable before this Court. The learned counsel for the petitioner would invite the attention of this Court to Article 226(2) of the Constitution of India, permitting the institution of writ petitions, where a part of the cause of action has arisen in the State, to contend that, insofar as the credit facility has been obtained in the State of Kerala, the writ petition is maintainable in this Court. However, the learned Standing Counsel for the 1st respondent would invite the attention of this Court to the provisions of the IBC to contend that since the order at Ext.P13 has been issued not with reference to the credit facility obtained, but with reference to the provisions of the IBC, the question of filing a writ petition in Kerala does not arise.

5. I have considered the rival contentions as well as the connected records.



6. Article 226(2) of the Constitution of India, true, permits the petitioner to prefer a writ petition when a part of the cause of action has arisen within the State. True, as suggested by the learned counsel for the petitioner, the credit facility has been obtained by the 3rd respondent herein in the State of Kerala.

7. At the same time, this Court notices that the proceedings before the NCLT have been instituted with reference to the provisions of the IBC. The initiation of proceedings under IBC is provided in Chapter III of the IBC. Section 95 entitles the creditor to initiate insolvency resolution process against the debtor as well as the personal guarantor. The proceedings would lie with the "Adjudicating Authority". As regards the "Adjudicating Authority", Chapter VI of Part II of the IBC, specifically lays down the Adjudicating Authority for corporate persons as under:-

"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.”

(Underlining supplied)

There cannot be any dispute that the proceedings have to lie only before the NCLT having territorial jurisdiction over the place where the registered office of the corporate person is situated. Even from the pleadings in the writ petition, it is clear that, as regards the 3rd respondent herein, the registered office was not in Kerala and was at New Delhi. It is in such circumstances that the 1st respondent instituted the proceedings before the NCLT, Delhi. Therefore, merely for the reason that a credit facility has been availed from the State of Kerala, in my opinion, the part of the cause of action, with reference to the provisions of IBC, does not arise in the State of Kerala. In such circumstances, in my opinion, the writ petition under Article 226 of the Constitution of India would not lie within the State of Kerala. For that reason, I am of the opinion that the writ petition requires to be dismissed.



8. Though Sri. Karunakaran, the learned Standing Counsel, would also contend that there is an alternative remedy available to the petitioner, since I have found that the writ petition is not maintainable in this Court, the question of alternate remedy raised as above is not to be considered.

In view of the afore, this writ petition would stand dismissed.

Sd/-

HARISANKAR V. MENON
JUDGE

AP

APPENDIX OF WP(C) NO. 97 OF 2025

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF THE CP (IB) 433/ND/2023 ORIGINALLY FILED BY THE RESPONDENT DATED 07.06.2023

Exhibit P2 TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONER DATED 13.09.2023

Exhibit P3 TRUE COPY OF THE INTERIM ORDER DATED 05.12.2023

Exhibit P4 TRUE COPY OF THE INTERIM ORDER DATED 12.12.2023

Exhibit P5 TRUE COPY OF THE INTERIM ORDER DATED 09.01.2024

Exhibit P6 TRUE COPY OF THE INTERIM ORDER DATED 23.01.2024

Exhibit P7 TRUE COPY OF THE ORDER IN CP (IB) 434 (ND) 2023 DATED 23.01.2024

Exhibit P8 TRUE COPY OF THE ORDER IN CP (IB) 435 (ND) 2023 DATED 23.01.2024

Exhibit P9 TRUE COPY OF THE REPORT FILED BY THE RP DATED 20.02.2024

Exhibit P10 TRUE COPY OF THE OBJECTION AGAINST THE REPORT OF 2ND RESPONDENT DATED 08.03.2024

Exhibit P11 TRUE COPY OF THE WRITTEN SUBMISSION FILED BY PETITIONER DATED 12.07.2024

Exhibit P12 TRUE COPY OF THE WRITTEN SUBMISSION OF THE RESPONDENT DATED 17.07.2024

Exhibit P13 TRUE COPY OF THE ORDER DATED 10.12.2024 PASSED BY THE NCLT, NEW DELHI BENCH, IN CP (IB) 433/ND/2023

Exhibit P14 TRUE COPY OF THE NOTICE DATED 20.07.2025 ISSUED BY THE 2ND RESPONDENT