

NCLT, KOCHI**Daily Orders – Draft**

In the Bench of: Shri Ashok Kumar Borah, Member (Judicial)

Date: 28th August 2020

1 CA/38/KOB/202

Learned counsel for the Appellant Shri John Vadassery appeared in the VC. Orders pronounced. CA is disposed of vide separate order.

**2 CP/22/KOB/2020 WITH
CAVEAT NO.6/KOB/2020 & CAVEAT NO.10/KOB/2020**

Learned PCS for the petitioners Shri Aswin Gopakumar appeared in the VC. Learned counsel for the Caveator in Caveat No.6 (R1 in the CP) and Caveat No.10 (R2 in the CP) Shri Gokul RI also appeared in the VC. Other than R1 & R2, no other respondents or their counsel appeared.

This is a Company Petition filed under section 241 and 242 of the Companies Act, 2013 requesting to: (i) declare that the 2nd respondent be limited to the shareholding as seen in the filings before the MCA as on 2018-19, ie. 5.56% of the paid up share capital (ii) declare the appointments of 3rd & 4th respondents as null and void for fraud; (iii) to appoint an administrator to take charge of the affairs of the Company; (iv) to order an investigation into the affairs of the company and the role of the 2nd respondent in defrauding the shareholders of the company; (v) to permit the reconstruction of the statutory records and the records of the company which have been removed by the 2nd respondent in the event that they are not recovered; and to permit to a re-audit of the financials of the 1st Respondent Company for the year 2018-19 and to permit the refiling of the same.

It appears from records that an EGM is scheduled in the R1 Company on 4th September 2020 under section 100(4) of the Companies Act. Learned counsel for the petitioners have also sought 7 interim reliefs including direction to restrain the 2nd respondent from conducting any EGM without the explicit permission and supervision of this Tribunal and Board of Directors. On the other hand, the learned PCS for R1 & R2 submitted that interim order, if any, may be passed only after filing the counter in the CP.

Heard learned counsel for the Petitioners as well as learned PCS for the Caveator (R1 & R2). I have also thoroughly perused the relevant records attached with the Company Petition. Accordingly, the Respondents are hereby directed to maintain

status quo as on this date as regards to the Shareholding Pattern, Board of Directors and Management of the R1 Company until further orders. It is also directed that any resolution passed in the proposed EGM shall be subject to the final decision of this Tribunal.

The petitioners are directed to issue notice to Respondents 3 & 4 through email and Registered post with A/d and submit proof of service with an affidavit before this Tribunal before the next date fixed. Registry is also directed to issue notice to R3 and R4 through email in addition to the normal procedure. All Respondents are directed to file their counter within two weeks.

Since the arguments of the Caveator has been heard and interim orders issued as above, **CAVEAT NO.6/KOB/2020 & CAVEAT NO.10/KOB/2020 stand disposed of.** List on 16.9.2020.

3 CP/23/KOB/2020

Learned counsel for the petitioner Shri Sharan Shahier appeared in the VC. None has appeared for the respondents. This is a Company Petition filed under section 241 to 246 of the Companies Act, 2013. The petitioner alleges mismanagement and oppression as defined under the provisions of the Companies Act, 2013 in the conduct of the 1st Respondent Company. Therefore, learned counsel of the petitioner sought certain interim reliefs. Heard the learned counsel for the petitioner. After thoroughly perusing the case records, it would be justified to issue orders on interim reliefs only after hearing the opposite party. However, the respondents are directed to maintain status quo as on this date as regards to the financial transactions of the R1 Company until further orders. The petitioner is directed to serve notice to the respondents through email in addition to Registered post with A/D and submit proof of service with an affidavit before this Tribunal before the next date fixed. Registry is also directed to issue notice to the respondents through email in addition to normal procedure. Respondents are directed to file their reply to the petition before the next date fixed. List on 14.10.2020.

4 CP/24/KOB/2020

Learned senior counsel for the petitioner Shri Joseph Kodianthara and learned counsel Shri Vijay V. Paul appeared in the VC. None has appeared for the respondents. This is a petition filed under section 241 and 242 of the Companies Act, 2013 alleging oppression and mismanagement in the R1 Company. According to the learned counsel for the petitioner, there are only two shareholders in the Company, ie. the petitioner and the 2nd respondent, who hold shares at the rate of 50.49% and 49.51% respectively. In the Main Petition, the petitioner has sought 4 interim reliefs. The learned senior counsel for the petitioner submitted that unless interim orders as prayed for in the petition are passed, the petitioner will suffer irreparable loss and injury and will be gravely prejudiced. I have heard the arguments of the learned senior counsel for the petitioner and thoroughly perused the documents attached with the Petition. In view of the fact that the petitioner holds major shareholding in the R1 Company and that the R1 Company is an ongoing

concern, I direct the R1 Company to ensure that no cheques are issued or any transaction involving financial implications are carried out without the signature of all Directors or their nominees until further orders. I also direct the R1 Company to grant the Petitioner free access to the books of accounts and all documents of the 1st Respondent Company.

The petitioner is directed to serve notice to the respondents through email in addition to Registered post with A/d and submit proof of service with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email in addition to normal procedure. Respondents are directed to file their counter before the next date fixed. List on 16.10.2020.

5 CA/42/KOB/2020

Learned counsel for the Appellant Shri Abhilash Nediyaalil Abraham appeared in the VC. Heard the arguments. Report of the ROC is on record. Orders reserved. List for pronouncement of orders on 9.9.2020.

6 MA/96/KOB/2020 IN IBA/44/KOB/2019

Learned RP Shri K.P.Dileep Kumar appeared in the VC. MA/96/KOB/2020 is filed by the RP attaching the Resolution Plan submitted by M/s. TOLINS PURE FOODS PVT LTD in the CIR Process against the Corporate Debtor M/s. Kaula Agro Foods Pvt Ltd. The RP prayed for the approval of the said Resolution Plan. List on 18.9.2020 for hearing on the resolution plan.

7 MA/99/KOB/2020 IN IBA/48/KOB/2019

Learned counsel for the Applicant Shri Akhil Suresh appeared in the VC. None has appeared for the respondents. This MA is filed by the Operational Creditor M.s V-Con Integrated Solutions Pvt Ltd under Rule 11 of NCLT Rules read with Section 9 of IBC, 2016 for restoration of the IBA against the Corporate Debtor M/s. Veristics Networks Pvt Ltd. It appears from records that IBA/48./KOB/2019 was withdrawn consequent to the settlement agreement between the OC and CD. Based on the settlement agreement, CD had given 3 cheques to the OC, but when the cheques were presented before the Bank, the same was not honoured due to lack of sufficient funds in the account of the CD. Hence the OC prayed to restore the application filed under Section 9 numbered as IBA/48/KOB/2019. I have heard the arguments of Shri Akhil Suresh and thoroughly perused the case records including the Withdrawal Memo and Settlement Agreement. Considering the documents on record, it would be justified to hear the opposite party before ordering restoration. The Corporate Debtor is also directed not to alienate any of their assets or transfer any of their properties until further orders. The applicant is directed to issue notice to the respondent through email and Registered post with A/d and submit proof of service with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondent through email in addition to normal procedure. List on 13.8.2020.

8 MA/100/KOB/2020 IN IBA/45/KOB/2019

Learned RP Shri Shankar P. Panicker appeared in the VC. Heard the arguments of RP. Orders issued. Orders passed in MA/100/KOB/2020 vide separate sheets.

9 MA/109/KOB/2020 IN CA/26/KOB/2020

Learned counsel for the applicant is ready to argue the matter through VC. RoC sent an email requesting 3 weeks time for filing the report of RoC. List on 6.10.2020.

10 IBA/11/KOB/2020

Learned counsel for the FC submitted an email stating his willingness to appear through VC. No response from the respondents. However, MD of the CD sent an email stating that in order to complete the registration formalities and settle the dues of FC he requires 3 weeks time. Allowed. Adjourned to 14.10.2020.

**11 TCA/18/KOB/19 (CA/228/18 (C.B.) IN
TCP/53/KOB/2019**

None has appeared for the petitioners. Learned senior counsel for R1 & R2 appeared in the VC and stated that a related case is posted on 8.9.2020 and hence sought an adjournment to that date. Allowed. List on 8.9.2020.

12 TCP/53/KOB/19 (CP/33/17)

None has appeared for the petitioners. Learned senior counsel for R1 & R3 appeared in the VC and stated that a related case is posted on 8.9.2020 and hence sought an adjournment to that date. Allowed. List on 8.9.2020.

13 TCP/01(KOB)/2020 (CP/20/1985/HC) WITH IA/11/KOB/2020

No response from both the parties. List on 9.10.2020.

14 IA/12/KOB/ 2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

No response from both the parties. List on 9.10.2020.

**15 IA/13/KOB/2020 & IA/14/KOB/2020 & IA/15/KOB/2020 IN
TCP/01(KOB)/2020 (CP/20/1985/HC)**

No response from both the parties. List on 9.10.2020.

16 CP/06/KOB/2020

Learned counsel for the petitioner submitted an email stating his readiness to argue through VC. ROC submitted an email stating that the 3 officers of the Directorate including Asst Director and Jt Director dealing the subject matter are down with Covid 19. Hence he sought 3 weeks time for filing RD's report in the matter. List on 9.10.2020.

17 CA(CAA)/19/KOB/2019

Learned PCS for the appellant sent an email informing his willingness to appear through VC. However due to paucity of time today, adjourned to 19.10.2020.

18 CA(CAA)/20/KOB/2019

Learned PCS for the appellant sent an email informing his willingness to appear through VC. However due to paucity of time today, adjourned to 19.10.2020.