

**NCLT, KOCHI**

Daily **Orders** – Draft

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

Date: 11th June 2020

**MA/70/KOB/2020 IN TIBA/11/KOB/2019**

1. This application was filed under Section 60 of the Insolvency and Bankruptcy Code, 2013 read with Regulation 30 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by Mr. Bijoy Prabhakaran Pulipara, Resolution Professional for issuing directions to Incident Commander and Sub Divisional Magistrate, Fort Kochi.
2. Today the Resolution Professional had appeared through video conferencing and stated that considering the unprecedented health situation of the State, he promptly updated the matter to the Committee of Creditors and the promoters of the Corporate Debtor by email dated 24.03.2020. This Bench was not functional during the said period due to the lock down and there was no facility for Video conferencing system to seek prior permission of this Bench. The Committee of Creditors had evaluated the matter and after considering the importance of the matter permitted the Resolution Professional to handover the premises to the Tahsildar, Kanayannur and comply with the Order issued by the Government of Kerala under Section 2 of The Epidemic Diseases Act, 1897 Act No.3 of 1897. The Resolution Professional further submitted that regarding the take over of the premises of the Corporate Debtor, the Resolution Professional had duly filed a status report before this Bench on 01.04.2020 by way of email addressed to the Registrar, NCLT, Kochi Bench. Though the Incident Commander and Sub Divisional Magistrate Fort Kochi had issued the order to take over the premises of the Corporate Debtor under Section 2 of The Epidemic Diseases Act, 1897 act no. 3 of 1897, the definite period to handover the premises back to

Resolution Professional was neither mentioned nor updated. Since the initial time period of 180 days' for Corporate Insolvency Process shall be completed on 22.07.2020, he prayed for the following reliefs:

- a. Issue necessary direction to the Incident commander and Sub divisional Magistrate, Fort Kochi to put forward a definite date to handover the possession of the premises of the Corporate Debtor to the Resolution Professional to meet the timelines under Insolvency and Bankruptcy Code and to obtain the prior permission of the Hon'ble Bench for any further extension of the possession.
  - b. Issue necessary directions to the Incident Commander and Sub Divisional Magistrate Fort Kochi to protect and upkeep the assets, as seen in the video recording, of the Corporate Debtor and ensure proper security system in the premises.
  - c. Issue necessary directions to the Incident Commander and Sub Divisional Magistrate Fort Kochi to ensure that the functioning of the "Covid Care Centre" in the premises of the Corporate Debtor is not hindering the Corporate Insolvency Resolution Process in any manner, whatsoever.
3. I have heard the learned RP Mr. Bijoy Prabhakaran Pulipara and also perused the records. It appears that though there was a circular dated 22.03.2020, all NCLT benches shall remain closed from 23.3.2020 to 31.3.2020 for the purpose of judicial work. For unavoidable urgent matters, on applications through email to the Registry of NCLT, Chennai after service of notice to the other side and Hon'ble Acting President sitting singly at Chennai will examine and pass necessary orders. It appears from the record that as per the proceedings no. DCEKM 3804/2020 dated 25.03.2020 of District Collector, certain roles were assigned to the officials for carrying out the management and running of the Corporate Debtor as Covid Care Centre. Based on the order the Tahsildar Kanayannur had contacted the Resolution Professional to take over the possession of the premises. In consultation with the Committee of Creditors, the learned RP without informing this

Tribunal, handed over the premises of PVS Memorial Hospital Private Limited to Mr. Snehil Kumar Singh IAS, Sub Divisional Magistrate, Fort Kochi who was appointed as Incident Commander in Fort Kochi Sub Division along with Mrs. Beena P Anand, Tahasildar Kanayannur.

4. This application is silent as to the imposition of conditions in regard to:
  - i. Requisition letter from District Collector.
  - ii. Period of possession of the premises
  - iii. Cost of electricity
  - iv. Cost of water
  - v. Rent of premises etc.
5. As of today, 1239 active Covid-19 cases are in Kerala and the situation is not yet improving and still in grief. Therefore, in my opinion, it would not be justified to impose any condition or to issue a direction to the District Collector to give a probable return date of the said premises.
6. Taking the aforesaid view, this Tribunal is of the opinion that the matter may be kept in abeyance till atleast lifting of lock down imposed due to Covid-19 Pandemic. The learned RP may file fresh petition with details such as copy of requisition letter from the District Collector to PVS Memorial Hospital Private Limited for taking over the premises as Covid Care Centre, conditions imposed for cost of electricity, water and rent for use of overall premises, inventory of the articles, detailed structure of building, including room, fittings etc., immediately after the lifting of lockdown imposed by the Government for Covid-19 Pandemic for further directions.
7. List this MA/70/KOB/2020 along with the fresh application, if so filed by the RP.

**2 IA/68/KOB/2020 IN CP/96/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**3 IA/69/KOB/2020 IN CP/97/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**4 IA/70/KOB/2020 IN CA/37/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**5 IA/71/KOB/2020 IN CP/95/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**6 IA/72/KOB/2020 IN CP/94/KOB/2019**

Learned PCS for the applicant in IA appeared through VC. Learned counsel for respondents in the IA submitted an Email requesting for an adjournment for filing objection to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file their objections to the counter.

**7 IA/73/KOB/2020 IN CA/35/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**8 IA/74/KOB/2020 IN CA/34/KOB/2019**

Learned PCS for the applicant in IA and learned PCS for Respondent in IA appeared through VC. Learned PCS for respondents sought an adjournment for filing counter

to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file the counter.

**9 IA/75/KOB/2020 IN CP/93/KOB/2019**

Learned PCS for the applicant in IA appeared through VC. Learned counsel for respondents in the IA submitted an Email requesting for an adjournment for filing objection to the IA. List the case on **9.7.2020**, before that date the respondents are directed to file their objections to the counter.

**10 CP/13/KOB/2020**

Learned PCS for the petitioner appeared through VC and argued the matter. Orders reserved. List for pronouncement of orders on 16.6.2020.

**11 CA/21/KOB/2020**

Learned counsel for the appellant appeared through VC and argued the matter. Orders reserved. List for pronouncement of orders on 15.6.2020.

**12 CA/28/KOB/2020**

Learned PCS for the Appellant appeared through VC and argued the matter. Orders reserved. List for pronouncement of orders on 12.6.2020.