

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 8th Jan 2021

1 **IA/188/KOB/2020 IN MA/79/KOB/2020 IN MA/07/KOB/2020 IN
IBA/258/2019/CHENNAI BENCH**

Learned counsel for the Applicant Ms Latha K appeared through VC. Orders Pronounced. **IA/188/KOB/2020 IN MA/79/KOB/2020 IN MA/07/KOB/2020 IN IBA/258/2019/CHENNAI BENCH is dismissed vide separate order.**

2 **IA/202/KOB/2020 IN IBA/21/KOB/2019**

Learned RP Shri Jasin Jose appeared through VC. Orders pronounced. **IA/202/KOB/2020 IN IBA/21/KOB/2019 is disposed of vide separate order.**

3 **IA/201/KOB/2020 IN CP/128/KOB/2019**

Learned counsel for the Applicant Shri Philip Mathew appeared through VC. **Orders pronounced.** Prayer to appoint the Registered Valuer is allowed. **List the IA/201/KOB/2020 IN CP/128/KOB/2019 on 27.01.2021.**

4 **CA/72/KOB/2020**

None has appeared for the Appellants. **Orders pronounced. CA/72/KOB/2020 is disposed of vide separate order.**

5 **CA/127/KOB/2020**

Learned counsel for the Appellant Ms Sreepriya Kalarikkal appeared through VC. **Orders pronounced. CA/127/KOB/2020 is disposed of vide separate order.**

6 **IBA/42/KOB/2020**

Learned counsel for the Appellant Shri Vinod PV appeared through VC. This application is filed by the State Bank of India against the Personal Guarantor under

Section 95(1) of the IBC 2016 read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The applicant is directed to issue notice to the Respondent 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 29.01.2021, before that date the respondent may file his objection, if any.**

7 IBA/43/KOB/2020

Learned counsel for the Appellant Shri Vinod PV appeared through VC. This application is filed by the State Bank of India against the Personal Guarantor under Section 95(1) of the IBC 2016 Read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The applicant is directed to issue notice to the Respondent 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 29.01.2021, before that date the respondent may file his objection, if any.**

8 IBA/44/KOB/2020

Learned counsel for the Appellant Shri Vinod PV appeared through VC. This application is filed by the State Bank of India against the Personal Guarantor under Section 95(1) of the IBC 2016 Read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The applicant is directed to issue notice to the Respondent 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 29.01.2021, before that date the respondent may file his objection, if any.**

9 IBA/45/KOB/2020

Learned counsel for the Appellant Shri Vinod PV appeared through VC. This application is filed by the State Bank of India against the Personal Guarantor under Section 95(1) of the IBC 2016 Read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The applicant is directed to issue

notice to the Respondent 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 29.01.2021, before that date the respondent may file his objection, if any.**

10 IA/224/KOB/2020 IN IBA/49/KOB/2019

Learned RP Shri Rajendran PR appeared through VC along with his learned counsel Shri Vinod PV. Heard and perused the records. Reserved for orders. **List for pronouncement of orders on 29.01.2021.**

11 MA/181/KOB/2020 IN IA/166/KOB/2020 IN MA/01(KOB)/2020 IN IBA/145/2019(CB)

None has appeared for the Applicant. Learned counsel for the Respondent Shri Maulik Nanavati appeared through VC. This application is filed under Rule 11 of the NCLT Rules, 2016 for restoration of IA/166/KOB/2020 in MA/01/KOB/2020 in IBA/145/2019(CB). It appears from records that IA/166/KOB/2020 was dismissed on 03.11.2020 as "not pressed". The applicant has stated in this MA that the counsel is hopeful that the parties might arrive at an out of court settlement. However, the applicant submitted that he would be greatly prejudiced if the said IA is not restored, in the event of settlement talks resulting in a failure.

The learned counsel for the Respondent submitted that settlement talks have already been started and an amount of Rupees one lakh has been paid by the CD on 23.12.2012

I have heard and perused the records. **The MA/181/KOB/2020 for restoring the IA/166/KOB/2020 is allowed.** However, the prayer of the applicant to keep the said IA/166/KOB/2020 in abeyance cannot be considered at this time.

List IA/166/KOB/2020 on 12.02.2021 for hearing.

12 MA/01(KOB)/2020 IN IBA/145/2019(CB)

None has appeared for the Respondent. Learned counsel for the Applicant Shri Maulik Nanavati appeared through VC. He submitted that settlement talks have already been started and an amount of Rupees one lakh has been paid by the CD on 23.12.2012. According to Shri Maulik, the parties may be able to settle the dispute before the next date fixed. However, the bench observed that this is a long pending case and hence requires early disposal. **The parties may bear in mind that there shall be no further adjournment in this case. List on 12.02.2021 for final hearing.** Registry is directed to issue copy of this order to both the parties through email.

13 IA/205/KOB/2020 IN IBA/35/KOB/2019

Learned IRP Shri Sathiq Buhari appeared through VC. This is an application filed by the Interim Resolution Professional under Section 33(2) of IBC, 2016 seeking liquidation of the Corporate Debtor.

Vide our order dated 4th December 2020 the IRP was directed to file an affidavit explaining why he has not complied the Regulation 36A of the IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 in this CIRP Proceedings. He was also directed to explain the delay in filing this IA. In addition to the above, the IRP was also directed to report to this Tribunal the status of the Writ Petition filed by the CD before the Hon'ble High Court of Kerala.

In response to the above order, the IRP filed an affidavit on 14.12.2020. The IRP in his affidavit submitted that the Order passed on 21.10.2020 in IA No.160/2020 specifically directed the IRP to complete the CIRP Process on or before 30.11.2020. So, in the 1st CoC meeting convened on 18.11.2020 an agenda was placed before the CoC seeking permission to extend CIRP time under Section 12(2) of IBC, 2016. But in view of the non-co-operation and resistance of suspended directors, the matter was placed before the 2nd CoC meeting convened on 23.11.2020. The 2nd CoC meeting by 100% vote took a decision for liquidation and directed the IRP to file liquidation application under Section 33(2) of IBC, 2016 on or before 30.11.2020. As such the liquidation application (IA/205/KOB/2020) was prepared on 26.11.2020 but could file it on 1.12.2020 because of the reason that 28.11.2020, 29.11.2020 and 30.11.2020 were declared holidays for this Tribunal. Hence, the IRP submitted that there is no delay in submitting the liquidation application before this Tribunal.

The IRP further submitted that the suspended Directors of CD filed WP(C)No.24637/2020 before the Hon'ble High Court of Kerala challenging the CIRP in IBA/35/KOB/2019 but it was dismissed on 4.12.2020 for the reason that Writ Petition became infructuous in view of filing of liquidation application before this Tribunal.

The learned IRP submitted that he will produce the order of the Hon'ble High Court of Kerala in WP(C) No.24637/2020 today itself. He may do so.

I have heard the IRP and perused the whole case records. Reserved for orders. **List for pronouncement of orders on 11.01.2021.**

14 IBA/30/KOB/2020

Learned counsel for the Operational Creditor Ms Sudhakshina Prasad appeared through VC. None has appeared for the Corporate Debtor M/s. Seguro Foundations and Structures Pvt Limited. Ms Jagrithi Sanghi appeared for the Additional Corporate Debtor M/s. INKEL and submitted that her client has received only the mail sent from this Tribunal dated 26.11.2020 and the copy of IBA application has not yet been served on them by the Operational Creditor. The OC is directed to

supply a copy of IBA to the Additional Corporate Debtor (2nd respondent) within a week. The Additional CD may file his counter within two weeks and the OC may file his rejoinder, if any, before the next date fixed. **List on 04.02.2021.**

15 IBA/39/KOB/2020

Learned counsel for the Operational Creditor Shri N.R.Krishnan Unni as well as learned counsel for the CD Ms Midhuna KC appeared through VC. Counter filed by the CD is on record. Reserved for orders. **List for pronouncement of orders on 03.02.2021.**

16 TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for the Petitioners Shri Joseph Antony appeared through VC. Advocate Umachandran appeared through VC for the learned counsel for R3 Smt. Sindhu Lekshmi. Learned counsel for the Petitioner submitted that R4 expired. He also submitted that he has filed two IAs, one to set aside the abatement by condoning the delay and the other for impleading the legal heirs of R4 in the CP. But those IAs have not been listed today. Since this matter is pending from 1985 both the parties are directed to co-operate for an early disposal of the case. **List on 15.02.2020.**

17 IA/11/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for the Applicants Shri Joseph Antony appeared through VC. He submitted that he is not pressing the IA. The submission of the learned counsel for the applicants is recorded. Therefore **IA/11/KOB/2020 in TCP/01(KOB)/2020 (CP/20/1985/HC) is dismissed as not pressed**

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

No Response from the applicants. Learned counsel for the R1 to R3 Shri Joseph Antony appeared through VC. Advocate Umachandran appeared through VC for the learned counsel for R6 Smt. Sindhu Lekshmi. Since there is no response from the applicants for the last several postings as also today, **IA/12/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC) is dismissed due to non-prosecution.**

19 IA/13/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

Advocate Umachandran appeared through VC for the learned counsel for the applicant Smt. Sindhu Lekshmi. Learned counsel for R1 to R3 Shri Joseph Antony appeared through VC. None has appeared for other respondents. Since the learned

counsel for R1 to R3 has raised no objection against this application, **IA/13/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC) is disposed of as allowed.**

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

Advocate Umachandran appeared through VC for the learned counsel for the applicant Smt. Sindhu Lekshmi. Learned counsel for R1 to R3 Shri Joseph Antony appeared through VC. None has appeared for other respondents. Since the learned counsel for R1 to R3 has raised no objection against this application, **IA/14/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC) is disposed of as allowed.**

21 IA/15/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

Advocate Umachandran appeared through VC for the learned counsel for the applicant Smt. Sindhu Lekshmi. Learned counsel for R1 to R3 Shri Joseph Antony appeared through VC. None has appeared for other respondents. Shri Umachandran submitted that he has not yet gone through the whole case details, which are still with his Senior Advocate Smt. Sindhu Lekshmi and hence he sought a short adjournment. This is a long pending case from 1985. **The parties may bear in mind that there shall be no further adjournment in this case.** Both the parties are directed to co-operate for the early disposal of the matter. **List on 15.02.2021.**

22 CP/31/KOB/2020

Learned counsel for the Petitioner Mr.Akhil Suresh appeared through VC. Learned senior counsel for R2 to R5 Shri Joseph Kodianthara also appeared through VC. Shri Joseph Kodianthara submitted that the petitioners constitute 17.70% and the Respondents constitute 32.25%, which altogether constitute only less than 50% of the R1 Company. According to him, the allegation that 32.25% of the shareholders of the R1 Company can oppress the Petitioners is unimaginable and hence the petition itself is liable to be dismissed. Besides this Tribunal has not restrained the convening of the AGM and in the AGM held the petitioner was not reappointed in the AGM. Hence the Company Petition is not maintainable.

The submission of the learned senior counsel is recorded. The Petitioners are directed to file their rejoinder, if any, within two weeks, clarifying the arguments raised by the senior counsel. **List on 18.02.2021 for hearing.**

23 CP/43/KOB/2020

Learned counsel for the petitioner Ms Mariya Rajan appeared through VC. None has appeared for the respondents. It appears from records that the Petitioners have submitted proof of issue of notice to the Respondents. But the AD cards

acknowledging the proof of receipt of notice have not been produced. The petitioners are directed to produce the AD card received in token of serving of notice before the next date. Registry is directed to issue notice to the respondents through email in addition to normal procedure. **List on 25.02.2021.**

24 **CA/110/KOB/2020**

None has appeared for the Appellants. Report of ROC is on record. List on 28.01.2021 for hearing.

25 **CA/115/KOB/2020**

None has appeared for the Appellants. Report of ROC is on record. List on 28.01.2021 for hearing.

26 **CA(CAA)/19/KOB/2019**

Learned counsel for the Applicant Shri Gokul RI appeared through VC. The Report submitted by the Official Liquidator is on record. **Reserved for orders. List for pronouncement of orders on 25.01.2021.**

27 **CA(CAA)/20/KOB/2019**

Learned counsel for the Applicant Shri Gokul RI appeared through VC. The Report submitted by the Official Liquidator is on record. **Reserved for orders. List for pronouncement of orders on 25.01.2021.**

28 **CP(CAA)/06/KOB/2020**

Learned counsel for the Applicant Shri Gokul RI appeared through VC. List on **08.02.2021** for hearing.

29 **IA/96/KOB/2020 IN CP/04/KOB/2020**

Learned counsel for the applicants Shri Bijoy P. Pulipra, learned counsel for R1 to R3 Shri K.S. Ravi Chandran and learned counsel for R4 and R5 Shri Sankar P. Panicker appeared through VC. Heard both sides. Arguments concluded. **Reserved for orders. List for pronouncement of orders on 03.02.2021.**

30 **CP/04/KOB/2020**

Learned counsel for the Petitioners Shri Bijoy P. Pulipra, learned counsel for R1 to R3 Shri K.S. Ravi Chandran and learned counsel for R4 and R5 Shri Sankar P. Panicker appeared through VC. Heard both sides. Arguments concluded.
Reserved for orders. List for pronouncement of orders on 03.02.2021.