

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 2nd March 2021

1 CP/08/KOB/2021

Learned PCS for the petitioner Shri PP Zibi Jose appeared through VC. Shri Paulose C. Abraham, Advocate appeared through VC for R1, R2, R7 and R8. This is a petition filed by Mr. K.C.Thomas against M/s. Casino Hotels Ltd and 9 others alleging oppression and mismanagement of the R1 Company.

The Company Petition seeks a relief for several violations of Companies Act with respect to convening and conduct of Board Meetings, several financial irregularities going on for the past few years by holding on to the brute majority in the Director Board lead by its Chairman and Its Deputy Chairman and has reached a stage wherein to ensure the continuity of their misdeeds manipulated the e-voting system through misuse of shareholder's login id and passwords and ensuring two more directors were elected illegally at the last Annual General Meeting held on 23.12.2020. Immediately thereafter on 25.01.2021 with the support of the new two directors another two additional directors who are sons of the existing directors are proposed to be appointed. With this new appointment the Respondents who are already controlling the affairs of the Company are in total and full control of the Company and if the situation is not changed the oppressive acts and the mismanagement of the Company will be continued leading to a situation to winding up of the Company and that winding up will be prejudicial to the interest of the Petitioners, other shareholders, employees and others. The heinous method adopted by the Respondents to manipulate the e-voting system is one of the biggest corporate fraud and therefore requires immediate action against the Respondents.

Along with the main reliefs, the petitioners have sought 4 interim reliefs, which include to stay the election with respect to the reappointment of R2 and R3 at the AGM held on 23.12.2020.

Shri Paulose C. Abraham vehemently opposed the interim reliefs sought by the petitioner. He submitted that the total disputed votes mentioned in Pages 193 and 195 comes to 130 only, which in no way affect the election results declared in the AGM held on 23.12.2020. He also submitted he will file a counter, covering all the contentions raised, within two weeks. He may do so.

I have thoroughly perused the whole case records. After hearing both the parties I think it would not be justified to pass order on interim reliefs as sought for, without perusing the counter of the respondents. However, the R1 Company is directed to

maintain status quo with regard to the paid-up share capital and share holding pattern of the Company as on the last Annual General Meeting dated 23.12.2020 until further orders.

The Petitioner is directed to issue fresh notice to the R3, R4, R5, R6, R9 & R10 through email and Registered Post with A/D and submit proof of service (Track record or Acknowledgement Card) with an affidavit before the next date fixed. Registry is also directed to issue notice to those respondents through email. Respondents may file their counter within three weeks. **List on 08.04.2021.**

2 IA(IBC)/27/KOB/2021 IN IBA/133/KOB/2019/CB

Learned Liquidator Shri Ashok Velamur Seshadri appeared through VC along with his learned counsel Shri Vinod PV.

This application is filed by the liquidator under Section 66 read with Section 60(5) of IBC, 2016 with the prayer to pass an order to declare that the entries of Rs.21.37 crore made in the audited financial statement for the year 2018 described in Paragraphs 15 of the application are fraudulent transactions and to pass an order to declare that the Respondent Nos.1 to 3 are liable for the loss of Rs.21.37 crore suffered by the Corporate Debtor and direct the R1 to R3 to pay Rs.21.37 crores to the account of the Liquidator for distribution under Section 53 of the IBC, 2016.

Vide order dated 02.02.2021 the Applicant/RP was directed to issue notice to Respondents 1 to 3 along with copy of this IA by Registered Post with A/D and submit proof of service (acknowledgement card or postal track record) with an affidavit on or before this date. Accordingly, the RP has issued notice to the respondents by Registered Post and submitted the proof of service. As per the track report, notice was duly served on the respondents on 15.02.2021. But none has appeared for the respondents.

Heard the RP and perused the records. **Reserved for orders. List for pronouncement of orders on 19.03.2021.**

3 IA(IBC)/19/KOB/2021 IN IA/191/KOB/2020 IN IBA/21/KOB/2019

Learned counsel for the RP Shri Jasin Jose as well as learned counsel for the Corporate Debtor Shri Akhil Suresh appeared through VC. Shri Akhil Suresh submitted that has filed the hard copy of the counter yesterday. Shri Jasin Jose sought time to file his rejoinder. He may do so within two weeks positively. **List on 24.03.2021** for hearing.

4 IA/37/KOB/2021 IN IBA/21/KOB/2019

Learned counsel for the applicant Shri Shivsankar R. Panicker appeared through VC. Learned counsel for the RP Shri Jasin Jose, learned counsel for R2 Shri Sunil Shankar and learned counsel for R3 Shri Akhil Suresh appeared through VC.

Shri Akhil Suresh submitted that he has not yet received the copy of IA and hence unable to file counter. The applicant is directed to serve copy of the IA to R3 to enable him to file the counter. R3 is directed to file the counter within 2 weeks.

Learned counsel for the RP submitted that he has no comments to offer in this IA. This submission is recorded. R2 has already filed the counter. The Applicant may file his rejoinder, if any, against the counter of R2 and R3 before the next date fixed. List on **24.03.2021** for hearing.

5 IBA/22/KOB/2020

Learned counsel for the Operational Creditors Shri Ashwin R. Patel appeared through VC. He submitted that as directed by this Tribunal vide order dated 02.11.2020, paper publication has been done in "The Hindu" in English and in "Deshabhimani" in Malayalam. However, the proof of publication in "The Hindu" is only submitted.

Shri Ashwin R. Patel sought an adjournment to enable his senior to argue the case. Allowed. **List on 03.03.2021** before that the Operational Creditor shall file the proof of paper publication in "Deshabhimani also".

6 IBA/23/KOB/2020

Learned counsel for the Operational Creditors Shri Ashwin R. Patel appeared through VC. He submitted that as directed by this Tribunal vide order dated 02.11.2020, paper publication has been done in "The Hindu" in English and in "Deshabhimani" in Malayalam. However, the proof of publication in "The Hindu" is only submitted.

Shri Ashwin R. Patel sought an adjournment to enable his senior to argue the case. Allowed. **List on 03.03.2021** before that the Operational Creditor shall file the proof of paper publication in "Deshabhimani also".

7 IA/7(KOB)/2020 IN TCP/7/KOB/19

None has appeared for the Applicants. Learned counsel for R1 Shri C.K.Karunakaran as well as learned counsel for R2 Smt. Rema Smrithi appeared through VC. None has appeared for R3. **List on 25.03.2021.**

8 CA/8/KOB/2021 IN TCP/7/KOB/19

Learned counsel for the petitioner Shri C.K.Karunaran appeared through VC. None has appeared for R1, R2 and R4. Smt. Rema Smrithi, who appeared for R3 sought an adjournment to file the counter. Allowed. She may file the counter positively within two weeks. The Applicant may file the rejoinder, if any, before the next date fixed. **List on 25.03.2021.**

9 TCP/7/KOB/19

Learned counsel for the petitioner Shri C.K.Karunaran appeared through VC. None has appeared for R1, R2 and R4. Smt. Rema Smrithi appeared for R3. **List on 25.03.2021** for hearing

10 TCP/81/KOB/2019

Learned counsel for the petitioner Shri Philip Mathew as well as learned counsel for the respondents Shri T.K.Bhaskar appeared through VC. Arguments heard in part. **Adjourned to 04.03.2021 as PART HEARD.**

11 TCA/29/KOB/19

Learned counsel for the Applicants Shri T.K.Bhaskar as well as learned counsel for R2 & R3 Shri Philip Mathew appeared through VC. Arguments heard in part. **Adjourned to 04.03.2021 AS PART HEARD.**