

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 29th April 2021

1 IA(IBC)/75/KOB/2021 IN TIBA/19/KOB/2019

Learned RP Shri Jasin Jose appeared through VC.

Vide order dated 26.04.2021 the RP was directed to clarify on the following points:

- (a) The period availed for the CIR Process as on 11.03.2021.;
- (b) Whether the RP has been authorised by CoC.to file any application under 60(5) of IBC 2016.

The RP has filed a Memo on 27.04.2020, but it appears from the said memo that the RP has not clarified the above points.

The RP is hereby directed to submit his memo specifically clarifying the above points within seven days.

List it on 21.5.2021 for final hearing.

2 IBA/48/KOB/2019

Learned counsel for the Operational Creditor Ms Jeslin as well as learned counsel for the Corporate Debtor Shri Terry V. James appeared through VC.

Learned counsel for the Operational Creditor has filed a Withdrawal Memo on 28.04.2021 stating that the OC informed her that the CD intends to settle the matter peacefully and amicably by clearing the balance outstanding amount immediately and without delay. Hence, the learned counsel for the OC prayed to permit the Operational Creditor to withdraw the IBA reserving the liberty to file a fresh petition, if so advised in future.

Heard both sides. Reserved for Orders. List for pronouncement of orders on 17.05.2021.

3 REPORT/37/KOB/2021 IN MA/07/KOB/2019 IN IBA/258/2019/CHENNAI BENCH

Learned liquidator Shri Ravindra Chaturvedi appeared through VC.

This is the 6th progress report filed by the liquidator under Regulation 15 of IBBI (Liquidation Process) Regulations, 2016 for the quarter ended 31.03.2021. Perused the Report. Report is taken on record. Registry shall place it on record.

4 REPORT/38/KOB/2021 IN TCP/59/KOB/2019

Learned liquidator Shri Kizhakkekara Kuriakose Jose appeared through VC.

This is the 6th progress report filed by the liquidator under Regulation 15 of IBBI (Liquidation Process) Regulations, 2016 for the period 01.01.2021 to 31.03.2021. Perused the Report. Report is taken on record. Registry shall place it on record.

5 CA/13/KOB/2021

Learned counsel for the Applicant Shri Rohit R. Shenoy appeared through VC.

This is an Appeal filed by the Appellant for restoring the name of the Appellant Company in the Register of ROC. The appellant is a shareholder of the R2 Company. It appears from records that the appellant has not furnished the following documents, which are necessarily required in the case of appeal filed under Section 252 of the Companies Act, 2013.

- (i) Master Data of the Company
- (ii) Memorandum of Association and Articles of Association of the Company
- (iii) Latest Income Tax Return acknowledgement of the Company
- (iv) Financial Statements for the defaulted periods.

The Appellant has also sought a direction restraining the alienation, encumbrance or transfer of possession of, or user of, the assets and properties of the Company, covered by Sale Deed Nos. 1328/2015, 1404/2015, 1500/2015, 1501/2015 and 1764/2015, Thiroorangadi SRO to anybody else and directing the office to communicate the same to the SRO, Thiroorangadi and the Village Office, Abdul Rehman Nagar Village, pending disposal of this Company Appeal.

Shri Rohit R. Shenoy requested the Bench to postpone the matter to tomorrow to enable his senior to submit the case. Allowed.

List on 30.4.2021

6 CA(CAA)/01/KOB/2021

Learned PCS for the Applicant Companies Shri P.P.Zibi Jose appeared through VC.

Shri Zibi Jose submitted that he has filed the required documents as directed by this Tribunal vide order dated 8.04.2021.

Let the matter be adjourned to 21.5.2021 for hearing.

7 CA/54/KOB/2021 IN CP(COMPANIES ACT)/23/KOB/2021

Learned counsel for the Applicant Shri P.G.Jayashankar appeared through VC. This application has been filed for waiver of the requirements specified under clause (1) and (b) of Section 244 of the Companies Act, 2013, to apply under Section 241 of the Act and for producing the share certificates of the consenting parties.

Heard the learned counsel for the applicant. The applicant has filed a statement showing the details of the shares and their percentage. The applicant and the consenting parties have 21.49% of shares. Considering the materials on record, I think it would be justified to allow the relief sought for by the applicant in this CA.

CA/54/KOB/2021 IN CP(COMPANIES ACT)/23/KOB/2021 is therefore allowed.

8 CP(COMPANIES ACT)/23/KOB/2021

Learned counsel for the Petitioners Shri P.G.Jayashankar and learned PCS for the Respondents Shri Vivek Kumar appeared through VC.

The CP has been filed under Section 241 and 242 of the Companies Act, 2013 alleging oppression and mismanagement against R2 to R4 of the R1 Company. The Petitioners submitted that the affairs of the R1 Company are being conducted in a manner which is oppressive to the shareholders, prejudicial to the interest of the 1st respondent Company per se. According to the petitioner, he learnt that the respondent directors have been engaged in malpractices and have been illegally siphoning various amounts due to the R1 Company.

Hence this petition.

Heard the learned counsel for the petitioners as well as learned PCS for the respondents and also perused the records attached with the Petition. Along with 7 reliefs sought in the main CP, petitioners have also sought 3 interim reliefs. However, the learned counsel for the petitioner in his argument insisted to pass orders on interim relief sought under item (ii).

It is noted that the respondents have already filed the counter in this CP, but registry reported that the same has not been scrutinised. Considering the materials on record, I think it would not be justified to pass any order on interim reliefs without perusing the counter and hearing both sides.

The petitioners are directed to file their rejoinder, if any, before the next date fixed.

List it on 28.05.2021 for hearing.

9 **IA(IBC)/80/KOB/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019**

Learned liquidator Shri Shawn Jeff Christopher appeared through VC. This is an IA filed by the liquidator for impleading the banks of the Corporate Debtor and seeking co-operation from the banks over the amounts credited in the bank accounts of the Corporate Debtor.

The liquidator submitted that the CD received credit in its bank accounts from untraceable sources. Due to the non co-operation of banks, the liquidator is not in a position to identify the source of receipt. The liquidator is facing significant hardship with respect to unidentified credit in the banks accounts.

Hence this application for impleading the Banks as respondents

Heard the liquidator and perused the records. The liquidator is directed to issue fresh notice to the proposed respondents through email and Registered Post with A/D or Speed Post and submit proof of service (Postal Track record or A/D card) with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email. The proposed impleading respondents are directed to file their counter within two weeks positively, in default, law will take its own course. Rejoinder, If any, be filed well before the next date fixed. **List the matter on 21.05.2021 for hearing.**

10 **IA(IBC)/74/KOB/2021 IN IBA/21/KOB/2019**

Learned counsel for the applicants Smt Jeslin appeared through VC. Learned RP Shri Jasin Jose and learned counsel for R2 Shri Sunil Sankar also appeared through VC.

This IA has been filed by the applicant seeking direction to the RP/R2 to consider a resolution plan to be submitted by the applicant in terms of the provisions of the IBC 2016.

Smt. Jeslin sought adjournment stating that her senior Shri Harikumar G. Nair is under quarantine due to Covid 19.

Shri Jasin Jose submitted that the period of CIR Process has already been expired on 08.04.2021 and his position as RP is not in existence. CoC is also not in existence. The submission of Shri Jasin Jose is recorded.

Anyhow, list the matter on 20.05.2021 for final hearing.

11 **IA(IBC)/68/KOB/2021 IN IBA/21/KOB/2019**

Learned counsel for the FC Shri Sunil Shankar and learned counsel for R1 Ms Jeslin appeared through VC.

The applicant alleged that the Resolution Applicant/R2 has failed to infuse funds as provided in the Resolution Plan. Hence the FC filed this petition for liquidation of the CD.

Learned counsel Shri Sunil Shankar submitted that the R2 is dragging the matter unnecessarily.

Let the case be listed on 20.05.2021 for final hearing.

12 **CP.IB/1/KOB/2021**

Learned counsel for the Operational Creditor Shri N.R.Krishnan Unni expressed willingness to appear through VC. But learned counsel for Corporate Debtor Shri Vinod PV appeared through VC and sought an adjournment stating that his brother is hospitalised due to Covid 19.

Pleadings are complete.

Since this is an IBC matter, the parties may bear in mind that this case cannot be prolonged further. Therefore, the parties are directed to co-operate for an early disposal of this case.

Let the matter be adjourned to 20.5.2021 for final hearing.

13 **IA/37/KOB/2021 IN IBA/21/KOB/2019**

Learned RP Shri Jasin Jose, learned counsel for R2 Shri Sunil Sankar and learned counsel for R3 Ms Jeslin appeared through VC.

Smt. Jeslin sought an adjournment stating that her senior Shri Harikumar G. Nair is under quarantine due to Covid 19.

Let the matter be adjourned to 20.05.2021 for final hearing.

14 **MA/71/KOB/2020 IN IBA/38/KOB/2019**

None appeared for the applicant. Learned counsel for the RP Shri K.B.Arun Kumar appeared through VC. Learned counsel for R3 Shri Reji George and learned counsel for R4 Shri Pranoy Harilal also appeared through VC.

Vide order dated 17.03.2021 the Hon'ble NCLAT has set aside the order passed by this Tribunal dated 20.04.2020 and given direction to this Tribunal to fix a date to

hear the MA/25/KOB/2020 afresh and dispose of the matter in accordance with law, within six weeks from 15th April 2021.

Shri Reji George submitted that his client was not made a party in MA/25/KOB/2020.

The Bench directed the parties to file fresh IAs, if any, in MA/25/KOB/2020 to enable this Tribunal to hear the matter afresh.

Registry is directed to issue copy of this order to the learned counsel of the parties through Email for taking appropriate steps, if advised.

MA/25/KOB/2020m be listed on 17.05.2021 along with application, if any, filed.

15 IBA/46/KOB/2019

Both sides sought an adjournment through email.

Let the matter be listed on 27.05.2021.

16 CA/45/KOB/2021 IN TCP/67/KOB/2019 (CP/9/2016)CHENNAI BENCH

Learned counsel for the applicant Shri Sankar P. Panicker as well as learned counsel for R1 to R6 Shri Joseph Kodianthara appeared through VC.

Learned senior counsel for R1 to R6 sought an adjournment stating that he is under quarantine. Shri Sankar P. Panicker vehemently opposed the adjournment request stating that the Respondents are dragging the matter without any cogent reason.

Heard both sides.

Let the matter be adjourned to 02.06.2021. Before that date, if any AGM is held, any decision/resolution taken in the AGM will be subject to the final outcome of this case.

17 IA/149/KOB/2020 IN TCP/67/KOB/2019

Learned counsel for the applicant Shri Sankar P. Panicker as well as learned counsel for R1 to R6 Shri Joseph Kodianthara appeared through VC.

Learned senior counsel for R1 to R6 sought an adjournment stating that he is under quarantine. Shri Sankar P. Panicker vehemently opposed the adjournment request stating that the Respondents are dragging the matter without any cogent reason.

Heard both sides.

Let the matter be adjourned to 02.06.2021. Before that date, if any AGM is held, any decision/resolution taken in the AGM will be subject to the final outcome of this case.

18 TCP/67/KOB/2019

Learned counsel for the Petitioner Shri Sankar P. Panicker as well as learned counsel for R1 to R6 Shri Joseph Kodianthara appeared through VC.

Learned senior counsel for R1 to R6 sought an adjournment stating that he is under quarantine. Shri Sankar P. Panicker vehemently opposed the adjournment request stating that the Respondents are dragging the matter without any cogent reason.

Heard both sides.

Let the matter be adjourned to 02.06.2021. Before that date, if any AGM is held, any decision/resolution taken in the AGM will be subject to the final outcome of this case.

19 TCP/58/KOB/19 (TCP/235/17)

Both sides expressed willingness to appear through VC. But due to paucity of time, **adjourned to 27.05.2021.**

20 CP/55/KOB/2020

Both sides expressed willingness to appear through VC. But due to paucity of time, **adjourned to 28.05.2021.**

21 TCP/57/KOB/2020 (CP/19/1999 of High Court of Kerala)

Learned counsel for the Petitioner expressed willingness to appear through VC but due to paucity of time, matter is **adjourned to 25.05.2021.**

22 CP/92/KOB/2019

Learned counsel for the petitioner Shri Anil D. Nair sought an adjournment through email.

Adjourned to 24.05.2021.

23 TCP/46/KOB/2019

Learned counsel for the Petitioner Shri Pradeep Joy expressed willingness to appear through VC, however, learned counsel for R1 to R4 Shri Joseph George sought an adjournment through email.

Adjourned to 21.05.2021.

24 CP/104/KOB/2019

Learned PCS Smt. Malathy, who appeared for the learned counsel for the Petitioners Shri Srikanth Mohan submitted that her senior PCS is under quarantine and hence sought an adjournment. Learned counsel for R1, R2, R20 & R25 submitted that he has filed CA/55/KOB/2021 in this CP and requested to list the said CA along with this CP. Shri Yogindunath and Vivek Kumar also appeared through VC.

List this CP on 04.6.2021 along with CA/55/KOB/2021.

25 CP/112/KOB/2019

Learned PCS Smt. Malathy, who appeared for the learned counsel for the Petitioners Shri Srikanth Mohan submitted that her senior PCS is under quarantine and hence sought an adjournment. Learned counsel for R1, R2, R20 & R25 submitted that he has filed CA/57/KOB/2021 in this CP and requested to list the said CA along with this CP. Shri Yogindunath and Vivek Kumar also appeared through VC.

List this CP on 04.6.2021 along with CA/57/KOB/2021.

26 CP/113/KOB/2019

Learned PCS Smt. Malathy, who appeared for the learned counsel for the Petitioners Shri Srikanth Mohan submitted that her senior PCS is under quarantine and hence sought an adjournment. Learned counsel for R1, R2, R20 & R25 submitted that he has filed CA/56/KOB/2021 in this CP and requested to list the said CA along with this CP. Shri Yogindunath and Vivek Kumar also appeared through VC.

List this CP on 04.6.2021 along with CA/56/KOB/2021.

