

**NCLT, KOCHI BENCH**Daily **Orders** – Draft

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

Date: **4<sup>th</sup> Jan 2021****1 MA/172/KOB/2020 IN CA/46/KOB/2020**

Learned counsel for the Applicant Shri Abhilash Nediyaalil Abraham appeared through VC. Orders pronounced. **MA/172/KOB/2020 IN CA/46/KOB/2020 is disposed of vide separate order.**

**2 REPORT NO. 126/KOB/2020 IN MA/151/KOB/2020 IN IBA/240/CB/IB/2019**

Learned counsel for the Liquidator Shri A.G.Sathyanarayana appeared through VC. **Report of the Liquidator is taken on record.** Registry is directed to place the Report in the appropriate file.

**3 REPORT NO. 129/KOB/2020 IN MA/151/KOB/2020 IN IBA/240/CB/IB/2019**

Learned counsel for the Liquidator Shri A.G.Sathyanarayana appeared through VC. **Report of the Liquidator is taken on record.** Registry is directed to place the Report in the appropriate file.

**4 IA/63/KOB/2020 IN IBA/240/2019/CB**

Learned counsel for the Liquidator Shri A.G.Sathyanarayana as well as Learned counsel for the Interveners Shri S.Easwaran appeared through VC. This IA is filed by the Interveners with a prayer to direct the liquidator not to take any proceedings against the schedule of properties including the sale of the assets scheduled in the application. It appears from the report No.129/KOB/2020 of the Liquidator that the District Administration has already handed over the hospital back to the liquidator. MA filed in this regard is listed for hearing on 12.01.2021 and after considering that matter, this matter may be heard. **Hence list this IA/63/KOB/2020 on 05.02.2021 for hearing.**

**5 MA/183/KOB/2020 IN TIBA/03/KOB/2019**

Learned counsel for the Applicants Ms Jinnu Sara George as well as learned counsel for the liquidator Shri Vinod PV appeared through VC. Shri Vinod sought one more weeks' time to file the counter. Allowed. The liquidator has to file his counter within **one week positively.** Adjourned to **18.01.2021.**

6 MA/185/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Ms Jinnu Sara George as well as learned counsel for the liquidator Shri Vinod PV appeared through VC. Learned counsel for the liquidator stated that the liquidator has not yet received any claim from Applicant No.8. Applicant No.8 may take necessary steps in this regard. Shri Vinod sought one more weeks' time to file his counter. Allowed. The liquidator has to file his counter within one week **positively**. Adjourned to **18.01.2021**.

## 7 IA/191/KOB/2020 IN IBA/21/KOB/2019

Learned RP Shri Jasin Jose appeared through VC. Learned counsel for the related parties Shri Akhil Suresh also appeared through VC. Registry reported that the IA filed by the RP is defective. Shri Jasin Jose submitted that he will cure the defects within a day or two. He may do so. The RP may serve the copy of the application after curing the defects to all related parties within a week and the related parties may file their counter before the next date fixed. List for hearing on **28.01.2021**.

8 IBA/11/KOB/2020

Learned counsel for the Financial Creditor Shri Mohan Jacob George appeared through VC. The MD of the Corporate Debtor Shri Arun Kumar K also appeared through VC. He submitted that as per the mutual understanding between the Company and the FC, the Company had made Rs.1 crore payment so far, for settlement and withdrawal of the case. The company had already submitted the proposal on 12.12.2020, after discussions with FC, for rescheduling the loan account. The FC has informed him that they will be getting due approval from the higher authorities soon, to submit the final settlement memo. So, according to the MD of the Company, he has already complied all the understanding and direction given by the FC for the settlement of the case and rescheduling of the loan account. The Company has requested the FC to file the settlement memo at their earliest convenience and withdraw the case.

The learned counsel for the FC submitted that he has no information as to what is stated by the MD of the Company and hence requested to post the case after two weeks to enable him to get clarifications from the Bank authorities. Allowed. **Adjourned to 22.01.2021**. Since this is an IBC matter, the parties may bear in mind that this case cannot be prolonged and **hence there shall be no further adjournment in this case**.

## 9 TCP/21/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Vivera, and learned

counsel for SFIO Shri Girish Kumar and the learned Registrar of Companies also appeared through VC. No representation for other respondents.

Learned counsel for the Administrator submitted that as per order dated 11.03.2020 in IA/29/KOB/2020 in TCP/21/KOB/2019, the Serious Fraud Investigation office (SFIO), Chennai was directed to investigate into the affairs of M/s Bhagyodayam Company and to submit the report within two months before this Tribunal. But the SFIO has not yet submitted its report and hence the learned counsel for the Administrator prayed to issue direction to the SFIO to submit the report immediately. He also submitted that he has received a report from M/s. Babu A. Kallivayil and Company, Chartered Accountants. But registry reported that they have not yet received the report from M/s. Babu A Kallivayil and Co.

ROC submitted that they are in the process of filing an appeal before NCLAT against the order of this Tribunal dated 11.03.2020.

Learned counsel for the Petitioners submitted that the appeal filed against the order of this Tribunal has already been dismissed by NCLAT as well as the Hon'ble Supreme Court. The learned counsel for the Petitioners is directed to submit the relevant orders of NCLAT as well as Hon'ble Supreme Court within two weeks.

It appears from records that the learned counsel for the SFIO Shri Girish Kumar submitted in the hearing on 10.08.2020 that the Government of India is under the process of constituting the team to investigate into the affairs of the Bhagyodhayam Company (R1) and at least two months period may require to complete the investigation against the R1 Company. But no report has been received till date. SFIO is directed to take steps to submit the report to this Tribunal before the next date fixed.

The Auditors M/s. Babu A. Kallivayil and Company is also directed to file their report before this Tribunal within two weeks.

**List on 26.02.2021 for hearing.**

#### 10 **CA/44/KOB/2019**

Learned counsel for the Applicants Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Vivera, learned counsel for R2 & R3 Shri Ashok B. Shenoy also appeared through VC. No representation for other respondents. **List on 26.02.2021 along with TCP/21/KOB/2019**

#### 11 **CP/124/KOB/2019**

Learned counsel for the Petitioners Shri Joseph Kodianthara submitted an email seeking an adjournment. Learned PCS for R1 to R3 Shri PP Zibi Jose submitted an email stating willingness to appear through VC. **Adjourned to 16.02.2021.**

12 **CP/126/KOB/2019**

Learned counsel for the Petitioners Shri Philip Mathew as well as learned PCS for R1 to R3 Shri PP Zibi Jose appeared through VC. It appears from records notice was duly served to R4 to R6. But they have neither taken steps to defend their case nor appeared before this Tribunal till this date. **Hence R4, R5 and R6 are hereby set ex parte.** The notice issued to R7 has not yet returned. The Petitioners are therefore directed to issue fresh notice to R7 by Registered A/D and file proof of service with an affidavit before the next date fixed. Registry is also directed to issue notice to R7 through email.

Learned counsel for the Petitioners submitted that he has already filed the Argument note along copy of 10 Orders/Judgements.

Since the argument note of R1 to R3 has not been filed, they are directed to file the same before the next date fixed. List on **12.02.2021** for hearing.

13 **IA/215/KOB/2020 IN CP/38/KOB/2020 c/w CP/126/KOB/2019**

Learned counsel for the Petitioners Shri Philip Mathew as well as learned PCS for R1 to R3 Shri PP Zibi Jose appeared through VC. Both the parties submitted that the 32<sup>nd</sup> and 33<sup>rd</sup> AGMs of the R1 Company have already been held. Counter filed by the R1 is on record. The learned counsel for the Applicants submitted that he wants to file the rejoinder. He may do so within two weeks. **List on 12.02.2021 for final hearing.**

14 **CP/38/KOB/2020**

Learned counsel for the Petitioners Shri Philip Mathew as well as learned PCS for R1 to R3 Shri PP Zibi Jose appeared through VC **List on 12.02.2021 for final hearing.**

15 **CA/84/KOB/2020**

Learned PCS for the Applicant Shri PP Zibi Jose appeared through VC. Learned counsel for R2, R3, R5 and R7 Shri Sukumar Nainan Ommen also appeared through VC.

The reliefs sought in the CA are to cancel the transfer of 4,102 shares and the subject shares be equally distributed amongst the coparceners of the HUF and to direct R1 Company to enter the names of the coparceners in the Register of Members.

Along with the main relief, the applicant has prayed for three numbers of interim reliefs, which include the prayer to suspend the voting power and all other rights attached to the said 4,102 shares until disposal of the CA.

Vide our order dated 20.10.2020 the respondents were directed to submit their counter within three weeks with a copy to the Applicant. But it appears from records that the respondents have not yet filed their counter. The learned counsel for R2, R3, R5 and R7 submitted that the issues involved in this CA and in CA/64/KOB/2020 are identical and hence the said CAs may be heard together. The learned counsel for the Applicants vehemently opposed the aforesaid points and prayed to allow the interim reliefs sought by the applicants in view of the failure of the respondents to file any counter in this case. Anyhow respondents are directed to file their counter in this case within two weeks positively and the petitioners may file their rejoinder, if any before the next date fixed.

After hearing both the parties, in regard to the voting power and transfer of shares, it is directed to **maintain status quo as of today** until further orders.

**List on 21.01.2021 for hearing.**

**16 CA/104/KOB/2020**

Learned counsel for the Appellant Shri Ramachandran Santa Krishnaprasad appeared through VC. Report of ROC is on record. **Reserved for orders. List for pronouncement of orders on 07.01.2021.**

**17 CA/106/KOB/2020**

Learned counsel for the Appellant Ms. Raveena Naz appeared through VC. Report of ROC is on record. **Reserved for orders. List for pronouncement of orders on 07.01.2021.**

**18 CP(CAA)/07/KOB/2020 in connection with CA(CAA)/06/KOB/2020**

Learned counsel for the Petitioners Shri Ameerul Millath appeared through VC. The petitioner has filed the affidavit with regard to the paper publication as ordered by this Tribunal on 03.12.2020. It appears from records that ROC as well as OL have no objection in the Scheme of Amalgamation filed by the Petitioners.

**Reserved for orders. List for pronouncement of orders on 12.01.2021.**