

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 9th Feb 2021

1 CA/5/KOB/2021

Learned counsel for the Appellant Ms Sudakshina Prasad appeared through VC. Orders pronounced. **CA/5/KOB/2021 is disposed of vide separate sheets.**

2 CA/07/KOB/2021

Learned PCA for the Appellant Ms Deepa Varghese submitted an email seeking an adjournment stating that she has to attend an urgent meeting at ICAI, New Delhi today. This is an Appeal filed by the Appellant for restoring the name of the Appellant Company in the Register of ROC. The documents submitted by the Appellant in his Appeal include the following:

- (i) Memorandum of Association and Articles of Association
- (ii) Latest Income Tax Return acknowledgement
- (iii) Audited Financial Statements for 5 years

Admitted. It appears that the Appellants have not submitted the latest Income Tax return along with the Appeal. Report of ROC has already been received. **Reserved for orders. List for pronouncement of orders on 16.02.2021.** Appellant is directed to file the latest Income Tax Return before that date. Registry is directed to issue copy of this order to the learned PCA of the Appellant through email.

3 REPORT NO.12/KOB/2021 IN TIBA/31/KOB/2019 & TIBA/10/KOB/2019

Learned RP Shri PD Vincent appeared through VC. This is a progress report of the RP in the matter of CIR Process of Kerala Housing Finance Ltd. The RP in his report mentioned that no funds are available with RP for further proceedings. The COC has not fixed the eligibility criteria for invitation of expression of interest as the same was defeated twice on placing before the COC. The liquidation proposals placed before the COC was also rejected. Some NCD holders expressed their interest in the SEBI recovery proceedings, however was not ready to withdraw the CIR Proceedings. Hence RP is facing difficulties in continuing the CIRP of the CD

The points raised by RP is noted. The **Report of RP is accepted and taken on record.** Registry is directed to place the report in the appropriate file.

4 IA/35/KOB/2021 IN IBA/30/KOB/2020

Learned counsel for the Applicant Shri Shivsankar R. Panicker as well as learned counsel for the respondents Shri Akhil Suresh appeared through VC. Shri Sivasankar R. Panicker submitted that appeal filed by INKEL Ltd before NCLAT against the order of this Tribunal is fixed 'For Admission (after notice) on 9.3.2021. Hence, he wants to withdraw this IA. The submission of the learned counsel for the Applicant is recorded and **IA/35/KOB/2021 IN IBA/30/KOB/2020 is dismissed as withdrawn.**

5 IA/36/KOB/2021 IN IBA/21/KOB/2019

Learned counsel for the Applicant Shri Shivsankar R. Panicker as well as learned counsel for the respondents Shri Akhil Suresh appeared through VC. This IA is filed with the prayer that IBA/19/KOB/2019 be taken up for hearing urgently and disposed of in priority in the light of the irreparable injury that will be caused to the Applicant on delay in disposal of the application.

Since IBA/19/KOB/2019 has already been Admitted and CIR Process in the matter is under progress, the prayer in this IA cannot be accepted and hence **IA/36/KOB/2021 IN IBA/21/KOB/2019 is dismissed.**

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

Learned counsel for the Applicant Shri Shivsankar R. Panicker as well as learned RP Shri Jasin Jose and learned counsel for the FC Shri Sunil Sankar appeared through VC. This is an IA filed by the resolution applicant under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016. The applicant has sought the following reliefs in the IA:

- (I) Resolution plan be modified by incorporating the mutually agreed position regarding the grace period;
- (II) The applicant be permitted to follow the revised timeline based on the mutual agreement between the parties during the 9th COC meeting or;
- (III) Considering the medical condition of the applicant, grant an extension of two months to the timelines proposed under the resolution plan.

The applicant has also sought interim relief to grant a stay directing the R1 or the COC from invoking the performance guarantee submitted by the applicant.

The Learned counsel for the applicant submitted that since the Bank Guarantee has already been fraudulently invoked by the Respondents the first interim relief sought has become infructuous. The RP and the learned counsel for FC sought time to file detailed counter in the IA. They may file the counter positively within two weeks with copy served to the applicant in advance. The applicant may file his rejoinder, if any, before the next date fixed. **List on 02.3.2021 for hearing.**

7 IA(IBC)/23/2021 IN TIBA/24/KOB/2019 (CP/505/(IB)/CB/2017/CHENNAI BENCH)

Learned liquidator Shri Shankar P. Panicker appeared through VC. The liquidator submitted that he has already submitted the copy of the application to ROC to record the address of the Liquidator. Registry has also issued notice to ROC. But ROC has not filed any reply. ROC is therefore directed to record the address of the Liquidator in the matter of M/s. Orion Kuries and Loans Private Limited (in liquidation) viz: **Panicker and Panicker, Advocates, 64,768, Jaikunj, Chittoor Road, Kochi 682 035**. As directed, an affidavit has been filed by the Liquidator producing certain documents. I have also heard the liquidator on his other prayers in the IA. **Reserved for orders. List for pronouncement of Orders on 24.02.2021.**

8 IBA/40/KOB/2020

Learned counsel for the Operational Creditor Shri Jack Thalakkottur as well as learned counsel for the CD Shri R. Krishnakumar appeared through VC. Shri Jack submitted that he received the counter by the CD only yesterday. He sought time to file the rejoinder. He may file the rejoinder within two weeks. **List on 03.03.2021 for hearing.**

9 IBA/41/KOB/2020

Learned counsel for the Financial Creditor Ms Uma Rani as well as learned counsel for CD Shri Peer Mohammed Khan appeared through VC. **Pleadings are complete.** Shri Khan submitted that settlement talks are going on between the parties. The FC has given a One Time Settlement proposal to the CD. But the amount fixed by the FC is not agreeable to the CD. So, further negotiations are under progress. Under the circumstance, the learned counsel for the CD sought a short adjournment to enable him to file an additional affidavit. His request is allowed. **List on 05.03.2021.** Before that date, both the parties may finalise the negotiations and file the settlement memo/additional statement.

10 CP/92/KOB/2019

Learned counsel for the Petitioner Ms Telma Raju appeared through VC. On the other hand, learned counsel for the respondents submitted an email seeking an adjournment stating that the counsel for the respondents is unable to attend the hearing on account of a personal inconvenience. **Adjourned to 15.03.2021 at 2.30 pm for hearing.**

11 **IA/56/KOB/2020 IN TCP/61/KOB/2019**

Learned counsel for the Applicants Shri Shameem Ahamed as well as learned counsel for the respondents Smt. Manjula Devi appeared through VC. Shri Shameem Ahamed submitted that some settlement talks are going on between the parties and hence sought a short adjournment. Adjourned to **16.03.2021** before that date both the parties may submit their written submissions in brief limiting 5 to 6 pages..

12 **IA/57/KOB/2020 IN TCP/61/KOB/2019**

Learned counsel for the Applicants Shri Shameem Ahamed as well as learned counsel for the respondents Smt. Manjula Devi appeared through VC. Shri Shameem Ahamed submitted that some settlement talks are going on between the parties and hence sought a short adjournment. Adjourned to **16.03.2021** before that date both the parties may submit their written submissions in brief limiting 5 to 6 pages..

13 **TCP/61/KOB/ 2019 (CP/531/2019)**

Learned counsel for the Petitioners Shri Shameem Ahamed as well as learned counsel for the respondents Smt. Manjula Devi appeared through VC. Shri Shameem Ahamed submitted that some settlement talks are going between the parties and hence sought a short adjournment. Adjourned to 16.03.2021 before that date both the parties may submit their written submissions in brief limiting 5 to 6 pages..

14 **CP/122/KOB/2019**

Learned counsel for the Petitioner Shri P.K.Sureshkumar as well as learned senior counsel for R1 Shri Joseph Kodianthara and learned PCS for R2 Shri Zibi Jose appeared through VC. Heard both sides. Arguments concluded. **Reserved for Orders. List for pronouncement of orders on 10.03.2021.** Both the counsel may submit their written submissions in brief (within 5 pages) within two weeks.