

NCLT, KOCHI bench

Daily Orders – Draft

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

Date: 1st Oct 2020

1 CP/128/KOB/2019

Learned counsel for the petitioner Shri Arun Babu as well as learned counsel for R1 to R3 Shri Philip Mathew appeared in the VC. Learned counsel for R1 to R3 submitted that he has filed an IA in this case. But registry reported that the said IA is defective. The Bench directed the learned counsel for R1 to R3 to cure the defect in his IA. Learned counsel for the petitioner prayed to file reply to the sur-rejoinder filed by the Respondents. Allowed. Next date fixed for hearing. List **on 9.12.2020**.

2 CA/61/KOB/2020

Orders pronounced. **CA is disposed of vide separate order.**

3 CP/32/KOB/2020

Learned counsel for the petitioner Shri Shinu J. Pillai appeared in the VC. This is a petition filed by Shri Wilson Jacob & Others against Kottayam Port and Container Terminal Services Pvt Ltd & Others under Section 213, 241 & 242 of the Companies Act, 2013. Learned counsel for the petitioner submitted that 48.96% of the stake of the Company is with the Government of Kerala through the 8th Respondent KINFRA. The project is substantially funded by the Central Government through Assistance to States for Developing Export Infrastructure and Allied Activities Scheme. The Petitioners are the Shareholders of the Company who conceptualized the project and invested their considerable time and money during the incubation stage of the Company. According to the learned counsel for the petitioners the present Management is conducting the affairs of the Company in a manner prejudicial to the interests of the Company, its shareholders and public. Hence this petition.

In the Petition, in addition to main prayer, the petitioners have sought two interim reliefs. I have thoroughly perused the petition and documents attached with the petition. It appears that without hearing the respondents, it is not justified to pass any interim order as prayed for in the petition. As such, the petitioners are directed to issue fresh notice to the respondents by Registered post with A/D and submit proof of service with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email in addition to normal procedure. List **on 24.11.2020**.

4 CA/67/KOB/2020

Learned counsel for the Appellant Shri Georgekutty Kurian appeared in the VC. This is an appeal filed under Section 252 of the Companies Act, 2013 seeking restoration of the name of the Company on the Register of Companies maintained by the Registrar of Companies, Kerala. Heard and thoroughly perused the records. Registry is directed to issue notice to ROC through special messenger for his report. List on **12.10.2020**.

5 TCA/68/KOB/2020

Learned counsel for the Appellant Shri Mohammed Hazeem HS appeared in the VC. This is an appeal filed under Section 252 of the Companies Act, 2013 seeking restoration of the name of the Company on the Register of Companies maintained by the Registrar of Companies, Kerala. Along with the petition, the petitioner has submitted Copies of Audit Report and Financial Statements for the last three financial years, Copy of Board Resolution, Copy of Bank statements, Income Tax return, MCA Master Data, etc. Heard and thoroughly perused the records. It appears from records that this Appeal was actually filed before the NCLT Chennai Bench and there is a copy of ROC report in the file. But the original report is not available. Therefore, ROC may make his authentication on the said report or submit the original report dated 6.5.2019 to this Bench. Registry is directed to take steps as shown above through special messenger. List on **12.10.2020**.

6 IBA/22/KOB/2020

Learned counsel for the IB Applicant/Operational Creditor Shri Cimil C. Kottalil appeared in the VC. As directed by this Tribunal vide order dated 28.7.2020 the OC has submitted the correct address of the Corporate Debtor through memo dated 26.8.2020. The OC is directed to issue fresh notice to the Corporate Debtor by Registered post with A/D and submit proof of service along with an affidavit before the next date fixed. Registry is also directed to issue notice to the CD through email in addition to normal procedure. The Corporate Debtor is directed to file their counter within 3 weeks and the Operational Creditor may file their rejoinder, if any, before the next date fixed. List on **2.11.2020**.

7 IBA/23/KOB/2020

Learned counsel for the IB Applicant/Operational Creditor Shri Cimil C. Kottalil appeared in the VC. As directed by this Tribunal vide order dated 28.7.2020 the OC has submitted the exact address of the Corporate Debtor through memo dated 26.8.2020. The OC is directed to issue fresh notice to the Corporate Debtor by Registered post with A/D and submit proof of service along with an affidavit before the next date fixed. Registry is also directed to issue notice to the CD through email in addition to normal procedure. The Corporate Debtor is directed to file their counter within 3 weeks and the Operational Creditor may file their rejoinder, if any, before the next date fixed. List on **2.11.2020**.

8 IBA/33/KOB/2020

Learned counsel for the IB Applicant/Financial Creditor Ms Nidhi Sam John appeared in the VC. It appears from records that this IB Application is filed for realization of an amount of Rs.16,97,644/-, which includes principal amount of Rs.10,00,000/- and interest amount of Rs.6,97,644/-. It is seen that originally this IBA has been filed before this Bench on 26.8.2019, which was returned to the learned counsel to cure certain defects. However, the learned counsel re-presented the matter to this Tribunal only 15.9.2020 after curing the defects. The Financial Creditor is directed to issue fresh notice to the Corporate Debtor by Registered post with A/D and submit proof of service along with an affidavit before the next date fixed. Registry is also directed to issue notice to the CD through email in addition to normal procedure. The Corporate Debtor is directed to file their counter within 3 weeks and the Financial Creditor may file their rejoinder, if any, before the next date fixed. List on **6.11.2020**.

9 IA 83/KOB/2020 & IA/87/KOB/2020 & IA/95/KOB/2020 IN CP/114/KOB/2019

Learned counsel/PCS for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay, Shri Zibi Jose and Shri Sumit Agarwal appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on **20.10.2020 for final hearing**.

10 IA/84/KOB/2020 & IA/86/KOB/2020 & IA/93/KOB/2020 IN CP/119/KOB/19

Learned counsel/PCS for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay, Shri Zibi Jose and Shri Sumit Agarwal appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on **20.10.2020 for final hearing**.

11 IA/85/KOB/2020 & IA/88/KOB/2020 & IA/94/KOB/2020 IN CP/125/KOB/19

Learned counsel/PCS for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay, Shri Zibi Jose and Shri Sumit Agarwal appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on **20.10.2020 for final hearing**.

12 CP/25/KOB/2020

Learned counsel/PCS for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay, Shri Zibi Jose and Shri Sumit Agarwal appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on **20.10.2020 for final hearing.**

13 CP/26/KOB/2020

Learned counsel/PCS for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay, Shri Zibi Jose and Shri Sumit Agarwal appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on **20.10.2020 for final hearing.**

14 CP/27/KOB/2020

Learned counsel for both the parties, viz: Shri Sukumar Nainan Oommen, Shri P.Sanjay and Shri Zibi Jose appeared in the VC. I have heard the learned counsel for both the parties. The Bench observed that pleadings are complete in the main CP, hence decided to hear the arguments in the main CP instead of hearing in the IA. Both the parties are directed to submit their written arguments in the main CP within two weeks. List on 20.10.2020 for final hearing.

15 CA/62/KOB/2020

Learned counsel for the Appellant Shri Gokul RI appeared in the VC. Report of ROC is on record. **Reserved for orders. List for pronouncement of orders on 12.10.2020.**

16 CONTEMPT PETITION/07/KOB/2020 IN CP/24/KOB/2020

Learned senior counsel for the contempt petitioner Shri Joseph Kodiathara appeared through VC. Shri Anil D Nair took notice of respondent and appeared for the respondent through VC. Respondents sought time to file reply affidavit to the Contempt Petition. Two weeks granted to file the reply affidavit of the respondent. List on **19.10.2020 at 2.30 pm.**

17 **IA/136/KOB/2020 IN CP/24/KOB/2020**

Heard learned counsel for the applicant in IA and learned senior counsel for the respondents through VC. Arguments concluded. **Orders reserved.**

18 **IA/137/KOB/2020 IN CP/24/KOB/2020**

Heard learned counsel for the applicant in IA and learned senior counsel for the respondents through VC. Arguments concluded. **Orders reserved.**

19 **CP/24/KOB/2020**

Both sides are present through VC. **List on 19.10.2020.**

20 **IA/138/KOB/2020 IN CP/29/KOB/2020**

Learned counsel for the applicant in IA and learned senior counsel for the respondents appeared through VC. List for hearing on **19.10.2020**

21 **CP/29/KOB/2020**

Both sides are present through VC. **List on 19.10.2020**