

NCLT, KOCHI

Daily Orders – Draft

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

Date: 14th Sept 2020

1 MA/117/KOB/2020 IN MA/7/KOB/2019 IN
IBA/258/2019/CHENNAI BENCH to MA/138/KOB/2020 IN
MA/7/KOB/2019 IN IBA/258/CHENNAI BENCH

Learned counsel for the applicants Shri Shivasankar R Panicker appeared in the VC. Interim Orders pronounced in MA. **Orders on interim reliefs pronounced vide separate order.**

2 CA/43/KOB/2020

Learned PCA for the appellant Shri P.T.Joy appeared in the VC. Orders pronounced. **CA is disposed of vide separate order.**

3 CP/29/KOB/2020

Learned senior counsel for the petitioner Shri Joseph Kodianthara appeared in the VC. None has appeared for the respondents. Registry reported that though interim counter has been filed through email by Shri Anil D. Nair, Advocate, he has not filed his vakalat in this case. Hence registry did not provide him the link in the VC. Moreover, the counter is bulky having 152 pages and hence print could not be taken.

This is a Company Petition filed under Section 59, 241 and 242 of the Companies Act, 2013 alleging oppression and mismanagement in the R1 Company. Learned senior counsel for the petitioner submitted in the VC that in a similar case, ie. CP/24/KOB/2020 this Tribunal passed an interim order dated 28.8.2020. Here also the allegation against the Respondents are almost the same. The petitioner alleged that the Respondents have not complied the provisions of Section 62 of the Companies Act, 2013 with regard to further Issue of shares. It is also alleged that the entire loan procured for the R1 Company is under the collateral security furnished by the petitioner. There is also an allegation that the 2nd respondent has siphoned off money from the 1st respondent company and has possession of all the cheque books of the R1 Company of which he is the sole signatory. The petitioner has also submitted that the 2nd respondent has appointed his wife (R4) into the Board of Directors of the R1 Company illegally by submitting concocted documents. In the petition, the petitioner has sought eight interim reliefs. The learned senior counsel for the petitioner submitted that unless interim orders as prayed for in the petition are passed, the petitioner will suffer irreparable loss and injury and will be gravely prejudiced.

I have thoroughly perused the case records as well as the documents appended with the petition and also heard the arguments of the learned senior counsel for the petitioner. Learned counsel for the petitioner has limited his interim prayers to (a), (d) & (e) at present.

Considering the relevant facts and circumstances of this case, I direct the R1 company to ensure that no cheques are issued or any transaction involving financial implications are carried out without the signature of all directors or their nominees until further orders. The R1 company is directed to grant the petitioner free access to the books of accounts and all documents of the R1 Company. R1 and R2 are also directed to file before this Tribunal the documents sent to the Petitioner (including the proof of service) for the rights issue dated 22.3.2018, 31.3.2019 and 31.12.2019, including but not limited to the notice of board meeting and EGM for increasing the authorised share capital (including the proof of service), offer letter, relinquishment letter, attendance sheet, etc.

The respondents are directed to file the hard copy of interim counter before the next date fixed. The respondents may also file their reply to the CP and the petitioner may file their rejoinder, if any, to the reply. List on 16.10.2020.

4 CA/52/KOB/2020

Learned counsel for the appellant Shri R.Krishna Kumar appeared through Audio Conference. He submitted that the Company is an ongoing concern. Report of ROC is on record. Reserved for orders. **List for pronouncement of orders on 15.9.2020.**

5 CA/53/KOB/2020

Learned counsel for the Appellant Shri Sherry Samuel Oommen appeared through VC. It appears from records that ROC has not filed his report. Registry is directed to issue notice to ROC through special messenger. ROC is directed to file his report in this case before the next date fixed positively. The appellant is also directed to pursue the matter with the ROC.

Meanwhile the Bankers of the Appellant Company M/s. Palm County Projects and Developers Private Ltd., Oasis Athani Lane, Vanchiyoor, Thiruvananthapuram – 695 035, ie. Axis Bank Ltd., Pattom PO, Thiruvananthapuram Branch and the Federal Bank Ltd., Thiruvnanthapuram, Palayam Branch are directed to defreeze the Bank accounts (A/c No.113010200014784 and A/c No.10210200015819 respectively) to enable the Appellant Company hassle free operation of the bank accounts until further orders. The Appellant Company is permitted to carry out the operation of the above Bank Accounts solely for the purpose of the Appellant Company's business. List on 22.9.2020

6 IBA/01(KOB)/2020

Learned counsel for the Financial Creditor Shri Sadchith P. Kurup appeared in the VC. Learned counsel for R1 to R3 Shri P.V.George and learned counsel for R4 Shri

Sivasankar G. also appeared in the VC. Today the case is posted for filing the rejoinder. Learned counsel for the FC submitted that he could not file the rejoinder due to the shortage of stamp paper and hence sought an adjournment. The FC is directed to file their rejoinder within one week. Both the parties are also directed to file their written argument notes before the next date fixed positively. Registry is directed to issue copy of this order to both the parties through email. **List on 24.9.2020 at 2.30 pm for hearing.**

7 IBA/04(KOB)/2020

Learned counsel for the FC Shri V.A.Ajaikumar appeared in the VC. Learned counsel for the CD Shri P.V.George also appeared in the VC. Learned counsel for the CD submitted that though he submitted the argument note, he has not appended the citations. So, he sought a short adjournment to enable him to submit the citations. Learned counsel for FC also conceded to the request of the learned counsel for CD for an adjournment. Both the parties are directed to file their written argument notes with citations/judgements before the next date fixed. **Please bear in mind that there shall be no further adjournment in this matter.** Registry is directed to send a copy of this order to both the parties through email. **List on 29.9.2020 at 2.30 pm for hearing.**

8 CP/124/KOB/2019

Learned counsel for the petitioner sought an adjournment through email. Learned PCS for the respondents is ready to argue the matter through VC. Pleadings are complete. List on 5.11.2020 for hearing.

9 CP/05/KOB/2020

Learned counsel for the petitioner submitted an email stating willingness to appear through VC. Learned counsel for the respondents submitted an email requesting for an adjournment for one month as the parties are negotiating for a settlement. Learned counsel for the petitioner has stated that he has filed a rejoinder to the counter filed by R1 to R4. Pleadings are complete. List for final hearing/settlement on 6.11.2020.

10 CP/11/KOB/2020

Learned counsel for the petitioner sought an adjournment through email in order to file an IA seeking certain directions. Even though paper publication has been made on 5.8.2020 none has appeared for the respondents. List on 9.11.2020.

11 CA/45/KOB/2020

Learned PCS for the Appellant Shri Gokul R.I. appeared in the VC. Report of the ROC is on record. **Reserved for orders. List for pronouncement of orders on 18.9.2020**

12 CA/46/KOB/2020

Learned PCS for the Appellant Shri Abhilash Nediyaalil Abraham appeared in the VC. It appears from record that the Managing Director, Promotor and Chairman of the Appellant Company has filed an affidavit for lifting of the deactivation of DIN to enable him to file the pending returns and accounts for the defaulted financial years since directors are disqualified by the ROC. The Appellant is directed to submit a copy of the said affidavit to the ROC and ROC is directed to submit his report on this affidavit to this Tribunal before the next date fixed positively. The appellant is also directed to pursue the matter with the ROC. List on 23.9.2020 for hearing.

13 **IBA/17/KOB/2020**

Learned counsel for the FC Ms.Anagha Mhatre and learned counsel for CD Shri Pradeep Joy appeared through VC and argued the matter. **Arguments concluded. Orders reserved. List for pronouncement of orders on 9.10.2020.**