

NCLT, KOCHI BENCH**Daily Orders**

Date: 3rd Dec 2021

In the Bench of: **Shri Ashok Kumar Borah, Hon'ble Member (Judicial) &
Shri Anil Kumar B, Hon'ble Member (Technical)**

1 CA(CAA)/2/KOB/2021

Learned PCS for the Applicant Shri Sumit Agarwal appeared through VC.

Orders Pronounced. CA(CAA)/2/KOB/2021 stands disposed of vide separate order.

2 CA(CAA)/3/KOB/2021

Orders Pronounced. CA(CAA)/3/KOB/2021 stands disposed of vide separate order.

3 EP/1/KOB/2021 IN TCP/21/KOB/2019

This EP has been filed under Section 424 (3) of the Companies Act, 2013 read with Order 21, Rule 11 and 11A of CPC by the Petitioners Shri Alexander Correya and others for execution of an Order dated 28.08.2018.

The petitioner is directed to issue fresh notice enclosing copy of the Execution Petition to the respondents through email and Registered Post with A/D / Speed post with A/D and submit proof of service (A/D card or Postal Track Report) with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email. Respondents are directed to file their counter within two weeks positively with a copy served to the petitioner in advance.

The Petitioner is also directed to submit the plaint schedule of the properties of each of the respondents before the next date fixed.

List on 21.01.2022 for hearing.

3 **EP/2/KOB/2021 IN TCP/21/KOB/2019**

This EP has been filed under Section 424 (3) of the Companies Act, 2013 read with Order 21, Rule 11 and 11A of CPC by the Petitioners Shri Alexander Correya and others for execution of an Order dated 28.08.2018.

The petitioner is directed to issue fresh notice enclosing copy of the Execution Petition to the respondents through email and Registered Post with A/D / Speed post with A/D and submit proof of service (A/D card or Postal Track Report) with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email. Respondents are directed to file their counter within two weeks positively with a copy served to the petitioner in advance.

The Petitioner is also directed to submit the plaint schedule of the properties of each of the respondents before the next date fixed.

List on 21.01.2022 for hearing.

4 **CP(IB)/9/KOB/2021**

Learned counsel for the Petitioners Shri Prasanth Kumar as well as learned counsel for the CD Shri Vinod P.V. appeared through VC.

Shri Prasanth Kumar submitted that he has filed IA(IBC)/183/2021 to withdraw the CP(IB).

In view of the above, this **CP(IB)/9/KOB/2021 stands dismissed as withdrawn vide separate Order.**

4 **IA(IBC)/174/KOB/2021 IN CP(IB)/9/KOB/2021**

This IA has been filed by the applicant under Rule 32 read with Rule 34 of the NCLT Rules, 2016 with the prayer to treat the date of default as 18.06.2018, ie. the date on which the Corporate Debtors default exceeded Rupees one crore.

Shri Prasanth Kumar submitted that he has filed IA(IBC)/183/2021 to withdraw the CP(IB).

In view of the above, this **IA(IBC)/174/KOB/2021 IN CP(IB)/9/KOB/2021** as become infructuous and hence dismissed.

4 **IA(IBC)/183/KOB/2021 IN CP(IB)/9/KOB/2021**

This IA has been filed by the Petitioner seeking withdrawal of the Application under Section 7 under Rule 8 of the IBC (Application to Adjudicating Authority) Rules, read with Rule 121 of the NCLT Rules, 2016.

Learned counsel for the Applicant Shri Prasanth Kumar as well as learned counsel for the Corporate Debtor Shri Vinod PV appeared through VC.

The applicants in their application submitted that based on the discussion with Mr. Nishad N.P., the erstwhile Managing Director of the Corporate Debtor, a Settlement Agreement was reached for completion of the entire Project Raymount by December 2022 or within a period of 1 year from the date of receipt of Order approving withdrawal of CIRP against the Corporate Debtor, whichever is later, subject to the approval of this Tribunal. A copy of the settlement Agreement has also been produced along with the application.

Accordingly, the applicants prayed that the terms of the Settlement Agreement may be taken on record and to permit them to withdraw the application.

On hearing the parties, this Tribunal is of the opinion that the prayer of the Applicant to withdraw the Company Petition be allowed. The Settlement Agreement produced by the applicant is taken on record, in respect of the applicant in this case only, as a CIRP has already been initiated by this Tribunal in another CP filed by the home buyers. Accordingly, **IA(IBC)/183/KOB/2021 IN CP(IB)/9/KOB/2021 stands disposed of.**

5 TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for both the parties appeared through VC.

Vide Order dated 03.11.2021 both the parties were directed to sit together and sort out the issues and file a report by the Petitioners as to what transpired in their joint meeting before 03.12.2021.

Learned counsel for the Petitioner Shri Joseph Antony C has filed a Memo on 03.12.2021 stating the latest developments related to the settlement talks.

Shri Jose Antony sought one month time so as to effectuate the settlement agreed in principle between the parties. His request is allowed.

List on 08.02.2022.

5 IA/15/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for both the parties appeared through VC.

This IA will be taken up along with the main TCP.

Learned counsel for the Petitioner in the CP Shri Joseph Antony C has filed a memo stating the latest developments related to the settlement talks.

Shri Joseph Antony sought one month's time so as to effectuate the settlement agreed in principle between the parties. His request is allowed.

List on 08.02.2022.

5 IA(C/ACT)/47/KOB/2021 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

This IA has been filed by the Petitioners (Respondents 1 and 2 in the CP) with the prayer to refer the Company Petition for settlement in the light of Annexures A1 to A3 within a time frame so that the valuable time of this Tribunal can be saved and the complicated process of adduction of evidence and detailed hearing on merits can be avoided.

Learned counsel for the Petitioner in the CP Shri Joseph Antony C has filed a memo stating the latest developments related to the settlement talks.

Shri Joseph Antony sought one month's time so as to effectuate the settlement agreed in principle between the parties. His request is allowed.

List on 08.02.2022.

6 CP/23/KOB/2020

Learned counsel for the Petitioner Smt Linil Lal as well as learned counsel for R1 to R4 Shri Ratheesh P.R. appeared through VC.

Heard both sides partly. Smt. Linil Lal sought some more time to argue the matter. Allowed.

List on 13.12.2021 for hearing (Part Heard) – High on Board.

7 CP/34/KOB/2020

Learned PCS for the Petitioners Shri S. Krishna Moorthy as well as learned PCS for R1 to R4 Shri Yogindunath appeared through VC.

Both sides sought an adjournment for final hearing.

At the request of the parties, the case is adjourned to 04.01.2022 for final hearing.

8 CONT.APPL(IBC)/3/KOB/2021 IN MA/44/KOB/2019

Learned counsel for the Contempt Applicant Shri Bijoy P. Pulipra appeared through VC.

Shri Bijoy P. Pulipra has submitted an email on 30.11.2021 stating that the Respondents had handed over the keys to the Successful Resolution Applicant and fully complied with the Order dated 04.10.2021 passed by this Tribunal. During the hearing also he has stated that the orders have been complied with.

In view of the above, this CONT.APPL(IBC)/3/KOB/2021 IN MA/44/KOB/2019 IN TIBA/11/KOB/2019 is dismissed.

8 MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021

This application has been filed by the Monitoring Agent under Section 60(5) of IBC, 2016 against the respondents/suspended directors of the Corporate Debtor.

Learned Monitoring Agent Shri Bijoy Pulipra as well as learned counsel for the Respondents Shri V.K.Sajith appeared through VC.

The Monitoring Agent has submitted an email on 30.11.2021 stating that the Respondents had handed over the keys to the Successful Resolution Applicant and fully complied with the Order dated 04.10.2021 passed by this Tribunal. During the hearing also he has stated that the orders have been complied with.

In view of the above, this MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 has become infructuous and hence closed.

9 CP(IB)/39/KOB/2021

This CP has been filed by the Operational Creditor Shri Jose Samuel against the Corporate Debtor Royals International Trade and Allied Products Pvt Ltd under Section 9 of the IBC, 2016 read with Rule 6 of the IBC, 2016 for recovery of a debt amount of Rs.4,03,23,329/-.

Learned counsel for the OC Smt Sreedevi S as well as learned counsel for the CD Shri Nebil Nizar appeared through VC.

Smt. Sreedevi sought time to file the rejoinder. Allowed. She may file the rejoinder within 7 days.

Next date fixed for hearing.

List on 08.01.2022 for hearing.

Learned counsel for the parties may file their written submissions in brief (limiting 3-4 pages) at least 3 days before the above date.

10 CP/35/KOB/2020

Learned counsel for the Petitioner Shri Pratap Pillai appeared through VC. None appeared for the respondents. He has stated that the Hon'ble High Court has disposed of the WP© pending before it recently granting six weeks time to the petitioner for seeking alternative remedy.

The petitioner is directed to produce the latest Order of the Hon'ble High Court of Kerala before the next date fixed.

List on 28.01.2022.

11 CP/47/KOB/2020

Learned counsel for the Petitioner Shri Renjith Rajappan as well as learned PCS for R1 & R2 Shri Zibi Jose appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

12 CP/48/KOB/2020

Learned counsel for the Petitioner Shri Renjith Rajappan as well as learned PCS for R1 & R2 Shri Zibi Jose appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

13 TCP/49/KOB/2019

None appeared for the Petitioners.

It appears from records that none has appeared for the petitioners on earlier dates also,. Even though in the last date of hearing on 10.11.2021 one Ms K.J.Karthika appeared for the Petitioners, she has not yet filed any Vakkalath and even not appeared today.

Under the aforesaid circumstances, it is presumed that the petitioners are not interested to prosecute the case. Hence TCP/49/KOB/2019 stands **dismissed for non-prosecution vide separate sheets.**

13 TIA/130/KOB/2020 (CA/13/2009(CLB)) IN TCP/49/KOB/2019

None appeared for the Petitioners.

In view of the final order in TCP 49/KOB/2019, this TIA stands disposed of.

13 IA/23(KOB)/2020 IN TCP/49/KOB/2019

None appeared for the Petitioners.

None appeared for the Petitioners.

In view of the final order in TCP 49/KOB/2019, this IA stands disposed of.