

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 9th Nov 2021

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

1 CP(IB)/05/KOB/2021

Vide Order dated 03.11.2021 Shri Muhammed Davood Cmk was appointed as IRP in this CP(IB).

Registry reported that Shri Mohammed Davood Cmk vide his email dated 07.11.2021 informed that due to poor health condition he is not in a position to travel in connection with the CIRP duties and requested to allow him to withdraw from the assignment. His request is accepted.

Accordingly, we hereby appoint Shri Lukose Joseph (Insolvency Professional), Regn No.IBBI/IPA-001/IP-P-02224/2021-20222/13591, Lukose and Sabu Chartered Accountants, 34/1891E Anand Tower, Mamangalam PO, Palarivattom, Near Metro Pillar No.492, Ernakulam 682 025, Kerala, whose name appears in the panel of Insolvency Professions for the period 1.7.2021 to 31.12.2021 in respect of Kochi Bench, Kerala as Interim Resolution Professional in the matter of CP(IB)/05/KOB/2021. All the duties assigned in the order dated 3.11.2021 will remain the same. Registry is directed to send a copy of the order dated 3.11.2021 to him immediately along with this order, through email. Also forward a copy of this order to the Operational Creditor as well as the Corporate Debtor by email.

Registry is also directed to communicate this Order to IBBI for their information and necessary action/record.

2 IA(IBC)/166/KOB/2021 IN IBA/51/KOB/2019

This is an IA filed by the applicant/petitioner under Rules 11 and 15 read with Rule 34(3) of NCLT Rules, 2016 seeking permission to file an Expression of Interest and to submit Resolution Plan before the CoC and also to stay all further liquidation proceedings of the CD.

Adv Shri Pradeep appeared for the Applicant through VC. Learned RP Shri P.K. Raju also appeared through VC.

Shri Pradeep submitted that as per the Judgement of the Hon'ble Supreme Court, the applicant is entitled to submit the Resolution Application in this CIRP even at this belated time.

The RP submitted that the CoC has already taken decision to file liquidation application in this case before this Tribunal. However, he sought time to file objection to this IA.

The RP is directed to file his objection, if any, within 5 days from today.

List on 17.11.2021 for hearing.

3 MA(IBC)/29/KOB/2021 IN IBA/35/KOB/2019

This is an appeal filed by the OC under Section 42 of the IBC, 2016 seeking the relief to set aside the order dated 17.3.2021 passed by the Liquidator rejecting the interest amount and to direct the liquidator to admit the interest amount of Rs.27,26,627/- claimed by the OC in the liquidation proceedings.

Learned liquidator Shri Balakrishnan Baburajan appeared through VC.

The Liquidator is directed to submit his reply within a week.

List on **17.11.2021** for hearing.

4 COMP.APPLN/104/KOB/2021 IN TCP/20/KOB/2019

This is an application filed by the Applicants/Respondents in TCP with the prayer to accept Annexures A2 and A3 as Additional Documents in the CP.

Learned senior counsel for the Applicants Shri Joseph Kodianthara as well as learned counsel for the Respondent Shri A.M.Sridharan appeared through VC. This CA will be taken up along with the main case.

List on 16.11.2021 (High on Board).

5 IA/194/KOB/2020 IN IA/55/KOB/2019 IN TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan as well as learned senior counsel for R1 to R3 Shri Joseph Kodianthara and learned counsel for for R4 Shri Sankar P. Panicker appeared through VC. This IA will be taken up with the main case.

List on 16.11.2021 (High on Board).

6 MA(CA)/02/KOB/2021 IN TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan as well as learned senior counsel for R1 Shri Joseph Kodianthara and learned counsel for for R4 Shri Sankar P. Panicker appeared through VC. This MA will be taken up with the main case.

List on 16.11.2021 (High on Board).

7 TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan as well as learned senior counsel for R1 Shri Joseph Kodianthara and learned counsel for for R4 Shri Sankar P. Panicker appeared through VC. Learned counsel for the applicant argued for some time.

List for further arguments as **Part Heard on 16.11.2021 (High on Board) along with the related IAs.**

There shall be no further adjournment in this case.

8 CA/78/KOB/2020

Learned counsel for the applicant Shri Niranjana Sudhir as well as learned counsel for the respondents Shri Nebil Nizar appeared through VC.

Heard both sides. Arguments concluded.

Reserved for Orders.

Learned counsel for both the parties may submit their written submissions in brief (limiting 3-4 pages) within 3 days.

9 IA(IBC)/151/KOB/2021 IN MA(IBC)/25/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019

This is an IA filed by the Applicant, who is an ex-employee of the CD, under Rule 11 of NCLT Rules, 2016 for passing an Interim Order restraining the R1 from utilising the land belonging to the CD under Resolution for running a Rubber Industry in the name and Style Kerala Rubber Ltd.

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for R4 Shri Vinod PV appeared through VC.

The Petitioner is directed to issue fresh notice to R1 to R3 through Registered Post with A/D / Speed post and submit proof of service (A/D card or Postal Track Report) with an affidavit before the next date of hearing. Registry is also directed to issue notice to the R1 to R3 through email. Respondents are directed to file their counter within 15 days with a copy served in advance to the petitioner.

List on 24.11.2021 for hearing.

10 MA(IBC)/25/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019

This is an MA filed by the applicant Shri N.P.Rajan under Section 33(3) & 74(3) of IBC, 2016 read with Regulation 36-B (4-A) of CIRP Regulations, 2016 for passing an order for liquidation of the Corporate Debtor Hindustan News Print Ltd.

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for the CD Shri Vinod PV appeared through VC.

It appears that notice was duly served to the respondents. However, none appeared for them.

Respondents are directed to file the counter before the next date of hearing positively.

List on 24.11.2021.

11 CONT.APPL(IBC)/3/KOB/2021 IN MA/44/KOB/2019 IN TIBA/11/KOB/2019

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

This Contempt Application will be **heard on 11.11.2021** along with **MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019.**

List on 11.11.2021.

12 MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019

This is an application 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.

Vide Order dated 04.10.2021 the Respondents were directed to handover the vehicles along with the keys and RC documents and also the keys of the cabin of the Managing Director, original set of keys of the locker inside the Cabin, Original Licenses and Permits of the various facilities of the Corporate Debtor, etc within 10 days.

During the hearing of this case on 29.10.2021 Adv. Shri V.K.Sajith, who appeared for the Respondents through VC had submitted that the vehicles along with the keys and RC documents, keys of the cabin of the Managing Director, original set of keys of the locker inside the cabin, Original Licenses and Permits of the various facilities of the Corporate Debtor, etc. will be handed over to the Monitoring Agent on or before 03.11.2021. Accordingly, the matter was posted on 05.11.2021 for compliance of the Order by the Respondents. The Respondents were also directed to appear through VC on 05.11.2021.

However, when the matter has taken up for hearing on 05.11.2021 learned counsel Shri Sajith submitted that some vehicles could not be handed over to the Monitoring Agent since the same are under servicing. He further submitted that the Order of this Tribunal dated 29.10.2021 would be fully complied with, within 3 days positively. The suspended Director Smt Mini, who appeared through VC on 05.11.2021 had also stated that she is ready to comply the order of this Tribunal to hand over the aforesaid items, hence she was directed not to attend today's hearing.

Today, the Monitoring Agent Shri Bijoy Pulipra submitted that the respondents have not fully complied with the Order of this Tribunal. Two cars, keys of the cabin of the Managing Director, original set of keys of the locker inside the cabin, etc. have not yet been handed over to the Monitoring Agent.

The Respondents are directed to fully comply with the Order dated 29.10.2021 within 24 hours of receipt of this Order through Email, failing which, appropriate proceedings will follow.

The Respondents/Suspended Directors of the CD are directed to appear through VC on 11.11.2021.

List on 11.11.2021 for the appearance of the Respondents/Suspended Directors and report compliance of order dated 29.10.2021.

Registry is directed to issue copy of this Order to the learned counsel of both the parties and also to the Respondents / Suspended Directors through Email immediately.

13 **IA(IBC)/147/KOB/2021 IN IBA/38/KOB/2019**

This IA has been filed by the Resolution Professional under Section 33(1) of IBC, 2016 for liquidation of the Corporate Debtor.

Learned RP Shri Vinod Balachandran appeared through VC along with his learned counsel Shri K.B.Arun Kumar.

Heard the RP and perused the records. It is seen that the RP has not produced the written consent to act as Liquidator in original.

The RP submitted that he will file his Original written consent to act as Liquidator within 2 days. His submission is recorded.

Reserved for Orders.

14 IA(IBC)/164/KOB/2021 IN CP(IBC)/26/KOB/2021

This IA has been filed by the Operational Creditor for withdrawal of the CP(IBC). Learned counsel for the Operational Creditor Shri Dhruvraj R. Bhavsar appeared through VC.

Since the applicant wants to withdraw the CP(IBC), this **IA(IBC)/164/KOB/2021 IN CP(IBC)/26/KOB/2021 stands allowed.**

15 CP(IBC)/26/KOB/2021

Learned counsel for the Operational Creditor Shri Dhruvraj R. Bhavsar appeared through VC. None appeared for the Corporate Debtor.

It appears from records that the OC has not yet cured the defects pointed out by the Registry.

However, in view of the withdrawal application filed by the Operational Creditor, this **CP(IBC)/26/KOB/2021 stands dismissed as withdrawn vide separate Order.**

16 CP(IBC)/27/KOB/2021

Learned counsel for the Operational Creditor Ms Jinnu Sara George appeared through VC.

This is a petition filed by the Operational Creditor M/s. Uralungal Labour Contract Co-operative Society Ltd against the Corporate Debtor M/s. Perambra Coconut Producers Company Ltd.

After arguing for some time, Ms Jinnu Sara George, learned counsel submitted that she wants to withdraw this CP(IBC).

In view of the above submission, **CP(IBC)/27/KOB/2021 stands closed as withdrawn vide separate Order.**

17 CP(IBC)/30/KOB/2021

Learned counsel for the applicant Shri Vinod PV as well as learned counsel for the respondent Smt. Liza Meghan Cyriac appeared through VC.

Shri P.V. Vinod sought an adjournment stating that he has received the counter only yesterday and that he wants to file the rejoinder. He is directed to file the rejoinder before the next date of hearing.

List for hearing on 12.11.2021.

18 CP/53/KOB/2020

Learned counsel for the Petitioner Smt Merin Thaliath as well as learned PCS for R1 to R3 Shri Vivek Kumar appeared through VC.

Pleadings are complete.

List on 25.11.2021 for final hearing.

Learned counsel for both the parties may submit their written submissions in brief (limiting 3-4 pages) before the above date.

19 IA(C/ACT)/35/KOB/2021) IN IA(C/ACT)/23/KOB/2021 IN CP/24/KOB/2021

This IA has been filed by the applicant with the prayer to condone the delay of 30 days in filing the counter in IA(C/ACT)/23/KOB/2021.

The prayer of the applicant is allowed on condition that the applicant pays costs of Rs.1,000/- (Rupees One thousand) to the account of Ministry of Corporate Affairs and submit proof of payment along with the counter, within two weeks.

Accordingly, IA(C/ACT)/35/KOB/2021) IN IA(C/ACT)/23/KOB/2021 IN CP/24/KOB/2021 stands allowed. Registry is directed to accept the reply statement, if the proof of payment of Rs. 1000/- is produced, and place it on record, if it is otherwise in order.

20 IA(C/ACT)/23/KOB/2021 IN CP/24/KOB/2021

Learned PCS for the applicants Smt Sreepriya Kalarikkal as well as learned counsel for the respondents/petitioners Shri Shameem Ahmed appeared through VC.

This is an IA filed by the applicants (respondents in the CP) under Rule 11 of NCLT Rules, 2016 seeking directions with regard to the operation of the Bank Accounts of the R1 Company and also to direct the petitioner to correct the name of R6 in the CP.

Since pleadings are complete in the main CP, this IA will be heard along with the main C P.

List for final hearing on 30.11.2021 (HIGH ON BOARD).

21 IA(C/ACT)/37/KOB/2021 IN IA(C/ACT)/24/KOB/2021 IN CP/24/KOB/2021

This IA has been filed by the applicant with the prayer to condone the delay in filing the reply and to accept the reply in **IA(C/ACT)/24/KOB/2021 IN CP/24/KOB/2021**

The prayer of the applicant is allowed on condition that the applicant pays costs of Rs.1,000/- (Rupees One thousand) to the accounts of Ministry of Corporate Affairs and submit proof of payment along with the counter, within two weeks.

Accordingly, IA(C/ACT)/37/KOB/2021) IN IA(C/ACT)/24/KOB/2021 IN CP/24/KOB/2021 stands allowed. Registry is directed to accept the reply statement, if the proof of payment of Rs. 1000/- is produced, and place it on record, if it is otherwise in order.

22 IA(C/ACT)/24/KOB/2021 IN CP/24/KOB/2021

Learned counsel for the applicant/petitioner Shri Shameem Ahmed as well as learned PCS for the respondents/respondents Smt Sreepriya Kalarikkal appeared through VC.

This is an IA filed by the applicant/petitioner under Rule 11 of NCLT Rules, 2016 read with Order 1 Rule 10 of CPC 1908 for impleading 7th Additional Respondent.

Vide today's proceedings registry was directed to accept the reply statement filed by the Respondent, subject to payment of Rs.1,000/- as costs.

The applicant is directed to file the rejoinder, if any, within a week.

List for final hearing on 30.11.2021 (HIGH ON BOARD).

23 IA(C/ACT)/36/KOB/2021 IN IA(C/ACT)/25/KOB/2021 IN CP/24/KOB/2021

This IA has been filed by the applicant with the prayer to condone the delay in filing the reply and to accept the reply in **IA(C/ACT)/25/KOB/2021 IN CP/24/KOB/2021**

The prayer of the applicant is allowed on condition that the applicant pays costs of Rs.1,000/- (Rupees One thousand) to the account of Ministry of Corporate Affairs and submit proof of payment along with the counter, within two weeks.

Accordingly, IA(C/ACT)/36/KOB/2021) IN IA(C/ACT)/25/KOB/2021 IN CP/24/KOB/2021 stands allowed. Registry is directed to accept the reply statement, if the proof of payment of Rs. 1000/- is produced, and place it on record, if it is otherwise in order.

24 IA(C/ACT)/25/KOB/2021 IN CP/24/KOB/2021

Learned counsel for the applicant/petitioner Shri Shameem Ahmed as well as learned PCS for the respondents/respondents Smt Sreepriya Kalarikkal appeared through VC.

This is an IA filed by the applicant/petitioner under rule 11 of NCLT Rules, 2016 read with Order VI Rules 17 of CPC 1908 for the amendment of the CP to include Additional submissions and amendment of reliefs.

Vide today's proceedings registry was directed to accept the reply statement filed by the Respondent, subject to payment of Rs.1,000/- as cost.

List for final hearing on 30.11.2021 (HIGH ON BOARD).

25 CP/24/KOB/2021

Learned counsel for the petitioner Mr.Shameem Ahmed as well as learned PCS for the respondents Mrs. Sreepriya Kalarickal appeared through VC.

Pleadings are complete.

List for final hearing on 30.11.2021 (HIGH ON BOARD).