

NCLT – KOCHI BENCH

Daily Orders – For reference purpose only

Date 10th March 2022

Coram: **Shri Anil Kumar B.**
Hon'ble Member (Technical)

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 IA(IBC)/48/KOB/2022 in IA(IBC)/196/KOB/2021 IN IBA/13/KOB/2020

This IA has been filed by the Applicant/Respondent seeking condonation of delay in filing Reply and to recall the Order passed forfeiting the right to file the Reply Statement.

None appeared for the applicant. Shri Parameswaran Nair, RP appeared through VC.

Vide Order dated 08.03.2022 in **IA(IBC)/22/KOB/2022**, the RP was allowed to amend IA(IBC)/196/KOB/2021 and file amended copies before this Tribunal serving the amended copy to the respondents within one week. The applicant in this IA was also directed to file their reply statement against the amended IA(IBC)/196/KOB/2021.

In view of the above this IA is allowed. Registry is directed to accept the Reply Statement filed by the Respondent in IA(IBC)/96/KOB/2021.

IA(IBC)/48/KOB/2022 stands disposed of accordingly.

2 CPI/44/KOB/2020

Adv Smt Nivedita represented learned counsel for the petitioner Smt. Rema Smrithi. Shri Dhiren R. Dave, learned counsel for R1 to R3 appeared through VC. None appeared for ROC.

Smt. Nivedita sought an adjournment stating that her senior is tested Covid 19 positive. But no medical certificate has been filed.

Shri Dhiren R. Dave submitted that the petitioner is dragging the matter. According to him the petitioner is not a shareholder of the Company and hence the petition itself is not maintainable and reliefs sought for are not coming within the parameters of Section 241 and 242 of the Companies Act, 2013.

Smt Rema Smrithi is directed to submit the Medical Certificate with regard to her Covid positive before the next date fixed.

List on 23.03.2022 for hearing.

There shall be no further adjournment in this case.

2 COMP.APPL/91/KOB/2021 IN CP/44/KOB/2020

Learned counsel for the petitioner Smt. Rema Smrithi VK as well as learned counsel for R1 to R3 Shri Dhiren R. Dave appeared through VC.

This CA will be heard along with the hearings of the main CP.

List on 23.03.2022 for final hearing (High on Board).

3 CP(IB)/44/KOB/2021

This CP has been filed under Section 7 of the IBC, 2016 read with Rule 4 of the IB (AAA) Rules, 2016 by the Financial Creditor Malayalam Vehicles India Pvt for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor Malayalam Motors Pvt Ltd

Shri Anil D Nair, learned counsel appeared for FC and Shri Vijay V Paul, learned counsel appeared for the CD through VC.

Shri Vijay V Paul sought an adjournment stating that the senior counsel Shri Joseph Kodianthara, who argue this case, is held up in the Hon'ble Supreme Court in another case. Prayer allowed.

List on 15.03.2022 for hearing. Since this is an IBC matter, there shall be no further adjournment in this case

3 IA(IBC)/50/KOB/2022

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/Corporate Debtor with the prayer to accept additional documents (Annexures R9, R10 and R11) produced along with this IA.

Learned counsel for the applicant Shri Vijay V Paul appeared through VC.

This IA will be heard along with the hearing of the main CP(IB).

List on 15.03.2022 for hearing.

4 **IA(C/ACT)/15/KOB/2022 in TCP/21/KOB/2019**

This IA has been filed under Rule 11 and 32 read with Rule 15 of the NCLT Rules, 2016 for modification of Order dated 02.02.2022 and disallowing the claim of the Auditor as per Order dated 02.02.2022 in TCP/21/KOB/2019.

Shri K.R.Jinan, Administrator appeared through VC along with his counsel Shri Philip Mathew and Shri Pradeep Joy, learned counsel for the respondent appeared through VC.

The applicant is directed to file the following documents with an affidavit within 7 days from today:

- (i) Financial Statements of the Company for the last 6 years;
- (ii) Present status of the Company;
- (iii) Fee chart prescribed by Institute of Chartered Accountants of India in the matter of Auditing.

The Respondent is directed to submit the details of work done by him and the related fee prescribed by ICAI for such works.

List on 21.03.2022 for hearing.

5 **TCP/54/KOB/2019**

Smt Amrutha Vidyadharan, learned counsel for the Petitioner as well as Smt.Manjula Devi, learned counsel for R1 to R4 appeared through VC.

Smt. Amrutha Vidyadharan sought an adjournment to enable her senior to argue the case stating that her senior's mother is critically ill. **At her request, the case is adjourned to 29.03.2022 for hearing.**

5 **CONT.APPL(C/ACT)/3/KOB/2021 IN TCP/54/KOB/2019**

Smt Amrutha Vidyadharan, learned counsel for the applicant as well as Smt.Manjula Devi, learned counsel for R1 to R4 appeared through VC.

Smt. Amrutha Vidyadharan sought an adjournment to enable her senior to argue the case stating that her senior's mother is critically ill. **At her request, the case is adjourned to 29.03.2022 for hearing.**

6 CP/35/KOB/2020

Learned counsel for the Petitioner Shri Pratap Pillai appeared through VC. Shri E.K.Harikumar, Chairman of the Interim Committee appointed by this Tribunal also appeared through VC.

Vide Order dated 26.11.2020 in IA/178/KOB/2020 in CP/35/KOB/2020 this Tribunal had appointed an Interim Committee under the **Chairmanship of Shri E.K.Harikumar**, Director, Kerala Finance Corporation, (Retired Chief General Manager, State Bank of Travancore and a former Member (Banking) Task Force to form Kerala Bank and 4 other members to carry out the following duties and submit a report before this Tribunal within two months from the date of receipt of the order.

- (i) To review the Respondent No.1 company's financials and business and operational aspects;
- (ii) To conduct a forensic audit and initiate recovery of the amounts siphoned off from Respondent No.1;
- (iii) To take control of assets, property and bank accounts of Respondent No.1. However, the operation of accounts would be with the permission of this Tribunal or order of any Competent Court.
- (iv) To Take control of the software and protect the same without corruption or manipulations.
- (v) To take custody of cash in hand from the branches and deposit in any Nationalised Bank. However, the operation of the Bank account would be with the permission of this Tribunal or order of any Competent Court.

Shri E.K.Harikumar, Chairman, Interim Committee has submitted his report on 09.03.2022, but Registry reported that the same is defective since the annexures mentioned in the Report have not been attached along with the Report. Shri E.K.Harikumar is directed to cure the defects within 7 days.

However, the Bench observed the following from the report of the Interim Committee:

- (a) The Writ Petition No.227/2020 filed against the Order of this Tribunal was dismissed by the Hon'ble High Court of Kerala vide Order dated 29.11.2021 as not maintainable. The Writ Appeal No.190 filed against the aforesaid Writ Petition was also dismissed by the Hon'ble High Court of Kerala vide Judgement dated 15.02.2022.
- (b) The matters related to items (i) to (v) as mentioned above are completed or supposed to be completed by other agencies such as SFIO, CBI and other Competent Authorities appointed by the Government of Kerala.

It is noticed that, through the report, the Chairman has sought certain directions from this Tribunal to SFIO.

Though the Report submitted by Shri E.K.Harikumar, Chairman of the Interim Committee is defective, in view of the fact that the matters pointed out by this Tribunal under (i) to (v) mentioned above are under the proceedings of SFIO, CBI, etc., we are of the view that there is no need to pursue the matters by the Interim Committee.

Accordingly, the Order dated 26.11.2020 in IA/178/KOB/2020 in CP/35/KOB/2020 issued by this Tribunal is hereby recalled and the Interim Committee appointed by this Tribunal is directed to stop their proceedings with immediate effect.

Registry is directed to issue copy of this Order to the Chairman of the Interim Committee and also to the Petitioner and Respondents in the CP.

List the CP on 18.05.2022.

6 IA(C/ACT)/21/KOB/2022

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant with the prayer to implead him as Additional Respondent No.8 in the CP.

Smt Praveen Vyasan, learned counsel for the Applicant appeared through VC.

The Petitioner is directed to issue fresh notice enclosing a copy of the IA to the respondents 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 fixed. Registry is also directed to issue notice to the respondents through email. Respondents are directed to file their Reply Statement on or before 20.03.2022.

List on 23.03.2022 for admission.

7 COMPANY APPEAL/19/KOB/2021

This appeal has been filed under Section 59 of Companies Act, 2013 read with Rule 70 of NCLT Rules, 2016 by Shri K.K.Chandran and another against Prime Habitats Pvt Ltd and 2 others for rectification of Register of Members of the R1 Company.

Learned counsel for the Appellants Shri Raj Caroline as well as learned counsel for R1 to R3 Shri AM Sridharan appeared through VC.

Shri Raj Carolin stated that he has filed IA(C/ACT/23/KOB/2022 to accept certain documents. The applicant is directed to issue fresh notice enclosing a copy of the IA to the respondents 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 fixed. Registry is also directed to issue notice to the respondents through email. Respondents are directed to file their Reply Statement on or before 25.03.2022.

List this CA along with the above IA on 28.03.2022 for hearing.