

NCLT, KOCHI BENCH

Daily Orders

Date: 10th Dec 2021

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

1 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 against the Corporate Debtor Malayalam Motors Pvt Ltd for recovery of an amount of Rs.1,19,87,000/-.

Learned counsel for the FC Shri Anil D. Nair appeared through VC. Adv.Shri Vijay V. Paul appeared through VC and stated that he will be appearing for the Corporate Debtor and will file vakalat during the course of the day. He sought time to file reply statement of the Corporate Debtor.

The CD is directed to file the reply statement on or before 23.12.2021, serving copy to the FC, who may file rejoinder, if any, on or before 31.12.2021.

List on 05.01.2022 for hearing.

2 IA(IBC)/190/KOB/2021 IN TIBA/03/KOB/2019

This IA has been filed by the applicant Shri N.P.Rajan, an ex-employee of the CD, with the prayer to implead Central Bank of India as Additional Respondent No.5 in the MA(IBC)/25/KOB/2021.

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for the RP Shri Vinod PV and learned counsel for the Resolution Applicant Shri Chithrash appeared through VC.

Shri Philip Mathew submitted that the MA(IBC)/25/KOB/2021 is posted on 13.12.2021 and hence requested to post this IA also along with the said MA. His request is allowed.

List this IA along with MA(IBC)/25/KOB/2021 on 13.12.2021.

3 MA(IBC)/35/KOB/2021 IN TIBA/11/KOB/2019

This MA has been filed by the Applicant / Monitoring Agent in connection with the implementation of Resolution Plan of PVS Memorial Hospital Pvt Ltd.

Learned Monitoring Agent Shri Bijoy Prabhakaran Pulipra appeared through VC.

The applicant/Monitoring Agent is directed to issue fresh notice to the respondents enclosing a copy of this application, 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 counter within 3 weeks, ie on or before 31.12.2021.

List on 05.01.2022 for hearing.

4 IA(C/ACT)/56/KOB/2021 IN CP/21/KOB/2020

This IA has been filed by the Applicants (R14 and R15 in the CP) against the Respondents (Petitioners 1 to 8, R1 to R13 and R16 to R22 in the CP) with the prayer to pass an order directing that the Applicants who are arrayed as R14 & R15 in the party array are not necessary parties in the original Company Petition.

Learned counsel for R1 to R8 Shri Bijoy Pulipra appeared through VC.

When matter was called as Item No.4 of today's proceedings, neither the applicants nor their counsel appeared through VC and the matter was passed over. After completion of today's board, the matter was again called, but at that time also neither the applicants nor their counsel appeared through VC.

It is presumed that the applicants are not interested to proceed with the matter. Accordingly, the IA(C/ACT)/56/KOB/2021 IN CP/21/KOB/2020 stands dismissed for non-prosecution.

5 COMP.APPLN/108/KOB/2021 IN CP/09/KOB/2021

This IA has been filed by the applicants (respondents in the CP) under Rule 32 of the NCLT Rules, 2016 seeking 3 reliefs, which include to vacate the status quo direction of this Tribunal dated 03.03.2021 with regard to the shareholding pattern of the 1st Applicant Company so as to permit the Directors to proceed with issuing share capital at its discretion at the earliest.

Learned counsel for the R1/Petitioner Shri Akhil Suresh appeared through VC.

When matter was called as Item No.5 of today's proceedings, neither the applicants nor their counsel appeared through VC and the matter was passed over. After completion of today's board, the matter was again called, but at that time also neither the applicants nor their counsel appeared through VC.

It is presumed that the applicants are not interested to proceed with the matter. Accordingly, the COMP.APPLN/108/KOB/2021 IN CP/09/KOB/2021

stands dismissed for non-prosecution.

6 CP/16/KOB/2020

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen and Shri Sherry Samuel Oommen appeared through VC. Learned counsel for R1 & R11 Shri Philip Mathew as well as learned counsel for R2, R4, R5 and R9 Shri Jomy George also appeared through VC. None appeared for R3, R6, R7 & R8, R10 and R14. **R13 has already been set ex-parte.**

This is a part heard case. Since NCLT-Kochi Bench has been re-constituted with effect from 06.12.2012 this case is **released from Part Heard.**

Accordingly, the learned counsel for the Petitioner Shri Sukumar Nainan Oommen started his arguments afresh.

List on 15.12.2021 for further arguments of petitioner and for arguments of respondents. (Part Heard) – High on Board.

6 IA/91/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant/R3 Shri Thomas Geeverghese as well as learned counsel for R1 Shri Sukumar Nainan Oommen and learned counsel for R2 Shri Philip Mathew appeared through VC.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 15.12.2021– High on Board.

6 IA/126/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for respondent Shri Sukumar Nainan Oommen appeared through VC.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 15.12.2021– High on Board.

6 IA/127/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant Shri Sukumar Nainan Oommen as well as learned counsel for R1 & R11 Shri Philip Mathew appeared through VC. None appeared for R3, R6, R7, R8 for R10 & 14.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 15.12.2021– High on Board.

6 IA/128/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant Shri Sukumar Nainan Oommen as well as learned for R1 & R11 Shri Philip Mathew appeared through VC. None appeared for R3, R6, R7, R8, R10 & 14..

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 15.12.2021– High on Board.

6 Contempt Petition/06/KOB/2020 in CP/16/KOB/2020

Learned counsel for the Contempt Petitioner Shri Philip Mathew as well as learned counsel for respondent Shri Sukumar Nainan Oommen appeared through VC.

Shri Philip Mathew suggested that this contempt petition may be heard along with the main CP since pleadings are complete in the main CP.

List on 15.12.2021– High on Board.

7 CP/49/KOB/2020

Learned PCS for the petitioners Shri C.S.Vivek Kumar as well as learned counsel for the respondents Shri Terry V. James appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

8 CP/11/KOB/2021

Learned counsel for the Petitioners Aditya Venugopal as well as learned counsel for R1 Shri Thobias Powell appeared through VC.

R2, R3, R4 and R5 have already been set ex-parte.

Vide Order dated 01.12.2021, on hearing both parties, both parties stated that they are interested to explore the possibility of settling the matter through a mediator, this Bench directed them to suggest a name of a professionally qualified mediator (mutually agreeable person) to settle the matter amicably. Learned counsel for the Petitioners suggested the name of Adv Shri George C. Poothicote as the mediator, but the learned counsel for R1 stated that mediation under the aforesaid mediator is not agreeable to R1.

Accordingly, the Bench decided to hear the matter without referring to any mediation.

List on 05.01.2022 for hearing. (High on Board).

9 **IA(IBC)/169/KOB/2021 IN TIBA/35/KOB/2019**

This IA has been filed by the Liquidator against the suspended Managing Director of the Corporate Debtor seeking the following reliefs:

1. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to pay cash balance of Rs.2,07,826/- of the Company with him to the Liquidation Account of the Company maintained by the Liquidator with CSB Bank Ltd., Palarivattom Branch, Kochi.
2. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over address and other contact details of debtors of Goodwin Packpet Private Limited to the Liquidator.
3. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over the records of the Company including books of accounts to the Liquidator from the date of incorporation of the Company to the date of commencement of CIRP.
4. Pass such other order or orders that the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

It appears that notice was duly served to the suspended Managing Director. Vide order dated 30.11.2021 he was given the **last chance to file the reply statement** on or before 10.12.2021.

Learned liquidator Shri B. Baburajan appeared in person through VC. Adv Shri Athul Tom appeared through VC stating that he represents Shri Muraly Narayanan, the suspended Managing Director of the Corporate Debtor and sought some more time to submit reply statement against this IA.

In view of the request made by Adv Shri Athul Tom and also in the interests of justice, Shri Muraly Narayanan, the suspended **Managing Director is given the last and final opportunity to file his reply statement** in this IA on or before **17.12.2021, failing which his right to file reply statement will stand forfeited.**

List on 21.12.2021 for hearing.

Registry is directed to issue copy of this Order to the suspended Managing Director through email immediately

10 CP.IB/1/KOB/2021

Since IA (IBC)175/KOB/2021 has been disposed of today and since this matter has already been admitted and IRP appointed, no further orders are necessary.

10 IA(IBC)/175/KOB/2021 IN CP.IB/1/KOB/2021

This IA has been filed by the Liquidator of the Corporate Debtor (Nucleus Premium Properties Pvt Ltd) with the prayer to hear the matter at the earliest possible time and to permit withdrawal of the CIR Process.

Learned IRP Shri K.P.Dileep appeared in person along with his counsel Shri Krishnan Unni.

Heard the IRP and his counsel and perused the whole case records.

IA(IBC)/175/KOB/2021 IN CP.IB/1/KOB/2021 stands disposed of vide separate Order.

11 TCP/54/KOB/2019 (TCP/108/16)

Learned counsel for the Petitioner Smt Amrutha Vidhyadharan as well as learned counsel for R1 to R4 Dr. K.S.Ravi Chandran appeared through VC.

Smt. Amrutha Vidhyadharan sought an adjournment to enable her senior to argue the matter. **At her request, the case is adjourned to 17.01.2022 for hearing.**

11 CONT.APPL(C/ACT)/3/KOB/2021 IN TCP/54/KOB/2019 (TCP/108/16)

This Contempt Petition has been filed by the petitioner Shri C.J.Mathew against the Respondents August Builders and Contracts (India) Pvt Ltd and others under Section 425 of the Companies Act, 2013 read with Section 12 of the Contempt of Courts Act, 1971.

Learned counsel for the Contempt Petitioner Smt. Amrutha Vidhyadharan as well as learned PCS for the Respondent Dr. K.S.Ravi Chandran appeared through VC.

Smt. Amrutha Vidhyadharan sought an adjournment to enable her senior to argue the matter. **At her request, the case is adjourned to 17.01.2022 for hearing.**

12 TCP/81/KOB/2019

Learned counsel for the Petitioner Shri Philip Mathew appeared through VC. Shri Vijay V. Paul appeared for the respondents.

This is a part heard case. Since NCLT-Kochi Bench has been re-constituted with effect from 06.12.2012 this case is **released from Part Heard**.

List on 06.01.2022 for hearing.

13 TCA/29/KOB/19

Learned counsel for the applicant Shri Vijay V. Paul as well as learned counsel for R2 & R3 Shri Philip Mathew appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been re-constituted with effect from 06.12.2012 this case is **released from Part Heard**.

List on 06.01.2022 for hearing

14 CP/31/KOB/2020

Learned proxy counsel for the Petitioners Shri Naman appeared through VC and sought an adjournment stating that his senior advocate Shri Udaya Holla is engaged in the High Court in an urgent matter. Learned senior counsel for the R2 to R6 Shri Joseph Kodianthara appeared through VC.

At the request of the proxy counsel of the Petitioners, the case is adjourned to 18.01.2022 for hearing.

15 CP/10/KOB/2021

Learned proxy counsel for the petitioner Shri Neerav Merchant appeared through VC and sought an adjournment to enable his senior Shri Javed Gaya to argue the matter. It is seen that Shri Javed Gaya has no vakalath in this matter. The learned counsel appearing stated that his vakalath will be filed immediately. Learned counsel for R1 & R4 Shri Abraham Cherian and learned counsel for R2 & R3 Shri PP Zibi Jose also appeared through VC.

At the request of the proxy counsel for the petitioner, the case is adjourned to 24.01.2022 for hearing.

16 TCP/46/KOB/2019

Learned counsel for the Petitioner Shri Pradeep Joy appeared through VC. None appeared for the respondents

List on 17.01.2022 for final hearing.

Shri Pradeep Joy stated that he will inform the above date of posting to the learned counsel for the respondents Shri Sai Sudarshan / Shri V.N.Balakishore.