

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 16th Sept 2021

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

1 CP/54/KOB/2020

Learned counsel for the Petitioner Shri John Vadassery as well as learned PCS for R2 Shri Yogindunath S appeared through VC.

Orders pronounced. **CP/54/KOB/2020 stands disposed of vide separate Order.**

2 CP/1/KOB/2021

Learned counsel for the Petitioner Shri John Vadassery as well as learned PCS for R2 Shri Yogindunath S appeared through VC.

Orders pronounced. **CP/1/KOB/2021 stands disposed of vide separate Order.**

3 CP(IB)/29/KOB/2021

Learned counsel for the Financial Creditor Shri A.G.Sathyanarayana appeared through VC.

This is an IB Application filed by the Financial Creditor M/s. IDBI Bank Ltd against the Corporate Debtor M/s. Tip Top Furniture Pvt Ltd.

The Financial Creditor is directed to issue fresh notice to the Corporate Debtor through Registered Post with A/D / Speed post and submit proof of service (A/D card or Postal Track Report) with an affidavit 2 days before the next date of hearing. Registry is also directed to issue notice to the respondent through email. The Corporate Debtor is directed to file the counter within 15 days with a copy served in advance to the Operational Creditor.

List on 04.10.2021 for hearing.

4 IA(IBC)/137/KOB/2021 IN IBA/51/KOB/2019

Learned counsel for the applicant/RP Shri Vinod PV appeared through VC. Learned RP Shri Raju Palanilkunnathil also appeared through VC.

This is an IA filed by the RP under Section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules seeking extension of 30 days from 06.09.2021 to 05.10.2021 for completing the CIR Process.

Shri Vinod submitted that the RP has received the Resolution Plan on 31.08.2021, which has already been placed before the CoC, and they are likely to take a decision on the same through E-voting within a week. Hence this IA seeking extension of the CIRP period.

Heard and perused the records.

After hearing for some time, this Tribunal is of the opinion that further time cannot be granted to the Resolution Professional. However, he may proceed with the Resolution Plan and submit the plan for approval of this Tribunal, without further delay. In view of the above, the learned counsel for RP sought permission to withdraw this IA. Permission is granted and the **IA is disposed of as withdrawn.**

5 TCP/51/KOB/2019

Learned proxy counsel for the Petitioner Shri John Major as well as learned counsel for R13 Shri Millu Dandapani appeared through. Shri Millu Dandapani submitted that he has not yet filed vakkalath for R2 since the NOC from the earlier learned counsel has not yet been received.

In the hearing held on 27.01.2021 the learned counsel for the petitioner Shri AM Sridharan submitted that **R3, R4 & R6 expired.** Today both the parties submitted that **R2 also expired.**

The Petitioner is directed to take necessary steps to implead the legal heirs of the deceased respondents, within 4 weeks, if he is really interested to proceed with the case.

Since this is a very old pending case, **both the parties may bear in mind that there shall be no adjournment in this case, and that the matter will be disposed of on the basis of available records.**

List on 25.10.2021.

6 MA(C/ACT)/03/KOB/2021 IN CP/128/KOB/2019

Learned counsel for the Applicants Shri Babu Cherukara as well as learned counsel for R1 to R3 Shri Philip Mathew appeared through VC.

This is an MA filed by the Applicants/Petitioners 1 & 2 under Rule 11 of the NCLT Rules 2016 allowing the petitioners in the CP to purchase the entire shares of R2 & R3 at a price of Rs.16,397/- and for direction to the respondents to make available the entire shares for purchase by the petitioners.

This MA will be heard along with the main CP.

List on 29.10.2021 for hearing.

7 IA(C/ACT)/2/KOB/2021 IN CP/128/KOB/2019

Learned counsel for the Applicants Shri Philip Mathew as well as learned counsel for R1 to R3 Shri Babu Cherukara appeared through VC.

This is an IA filed by the applicants/R1 to R3 under Rule 11 of the NCLT Rules seeking an order allowing them to purchase the shares held by respondents/ Petitioners 1 & 2 at a price of Rs.17,400/- per share.

This IA will be heard along with the main CP.

List on 29.10.2021 for hearing.

8 CP/128/KOB/2019

Learned counsel for the Petitioner Shri Babu Cherukara as well as learned counsel for R1 to R3 Shri Philip Mathew appeared through VC.

Heard the learned counsel of both sides briefly, from the side of Petitioners as well as from the side of Respondents. It is transpired that there are 304 shares in the Company issued by the company according to the submissions made by the learned counsel for the petitioner as on date 120 shares are held by the petitioner and respondents are holding 105 shares. There are 57 shares in the name of persons who are died and 22 shares, which are belonging to neutral persons.

Respondent Nos 2 and 3 who are in charge of the affairs of the Company are directed to file an affidavit within a period of 2 weeks clearly showing the position as per their Register of Members as on date that how many shares are held by the petitioners, how many shares are belonging to the persons who died and how many shares are in the name of those persons who are neutral and neither petitioners nor respondents in this CP. Based on this data, the Bench would be taking a decision in this case.

List on 29.10.2021 for hearing.

9 CP(IBC)/23/KOB/2021

Learned counsel for the Operational Creditor Shri Manav Thomas appeared through VC.

Advocate Shri Shameem Ahmed appeared through VC for the Corporate Debtor stated that talks of compromise is going on between the parties and that is why he has not filed the counter.

It appears that vide order dated 10.08.2021 the CD was directed to file the counter on or before 25.08.2021 and in the very same order both parties were directed to complete the pleadings on or before 03.09.2021. In spite of the clear direction from this Bench, the CD has not yet filed the counter.

The CD is directed to file the counter within 7 days positively, failing which orders will be passed according to the available documents on record. **No further time will be granted for filing counter.**

List on **04.10.2021 for hearing. There shall be no adjournment in this matter.**

10 IA(C/ACT)/13/KOB/2021 IN RST.APPLN(C/ACT)/1/KOB/2021 IN TCP/13/KOB/2019

Learned counsel for the Applicant Shri Raj Carolin V appeared through VC. Learned counsel for the respondent Shri Harikumar G. Nair also appeared through VC.

This is an IA filed under Section 433 of the Companies Act, 2013 read with Section 5 of the Limitation Act, 1963 praying to condone the delay of 272 days in filing the restoration application in TCP/13/KOB/2019.

This IA will be heard along with the **RST.APPLN(C/ACT)/1/KOB/2021 IN TCP/13/KOB/2019.**

List on 29.09.2021.

11 RST.APPLN(C/ACT)/1/KOB/2021 IN TCP/13/KOB/2019

Learned counsel for the Applicant Shri Raj Carolin V appeared through VC. Learned counsel for the respondent Shri Harikumar G. Nair also appeared through VC.

This is an application filed by M/s. S.T. Reddiar and Sons (Quilon) Pvt Ltd against the Respondent Mrs. Girija Muthukrishnan for restoration of TCP/13/KOB/2019, which was dismissed due to non-prosecution vide Order dated 28.09.2020.

It appears from records that the petitioner was barred from representing the company until the disposal of the Company Petition No.TCP/13/KOB/2019. The learned counsel for the applicant submitted that there is a stay order by the Hon'ble High Court of Kerala against the order passed by this Tribunal, but he could not file any order of the Hon'ble Court staying the order.

On the other hand, Shri Harikumar G Nair vehemently opposed the restoration application stating that no stay order exists in this matter.

The applicant sought time to produce the stay order of the Hon'ble High Court of Kerala. He is granted one week time for this purpose.

List on 29.09.2021.

12 CA(C/ACT)/71/KOB/2021 IN CP/40/KOB/2020

Learned counsel for the applicant Shri Sunil N as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer appeared through VC. Mr.Arunkumar, Advocate appeared for R5.

This is an IA filed by the petitioner under Section 213 and 241 of the Companies Act 2013 read with Rule 11 & 32 of NCLT Rules 2016 seeking 7 reliefs, which include to issue an Injunction Order to refrain the Respondents from conducting the alleged Board Meeting.

Vide order dated 17.08.2021, respondents were given the last and final opportunity to file the counter on or before 26.8.2021. **Since they have not yet filed the counter, their right to file the counter is hereby forfeited.**

In CP/40/KOB/220, Vide order dated 06.11.2020 the respondents were directed to maintain status quo with regard to the disposal of any of the assets of R4 Company until further orders.

Since pleadings are complete in CP/40/KOB/2020, this CA will be heard along with the main CP.

List on 27.10.2021 for hearing.

13 COMP.APPL/87/KOB/2021 IN CP/40/KOB/2020

Shri Sunil N and Shri Rajesh Narayan Iyer appeared for the parties through VC.

This is an IA filed by the petitioner under Section 213 of the Companies Act, 2013 read with Section 11 of the NCLT Rules 2016 seeking a direction to ROC to conduct an investigation against R1, R2, R3 & R5 in the R4 Company and also to appoint an independent Chartered Accountant to estimate the losses caused to the R4 Company by the mismanagement of R1, R2, R3 & R5.

The applicant is directed to issue notice to the ROC through 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 of hearing. Registry is also directed to issue notice to the respondent through email. ROC is directed to file his reply, if any, within 15 days serving a copy to the applicant.

List on 27.10.2021 for hearing.

14 COMP.APPL/88/KOB/2021 IN CP/40/KOB/2020

This is an IA filed by the petitioner under Order 1 Rule 3 of the Civil Procedure Code 1908 read with Rule 11 of the NCLT Rules 2016 praying to implead ROC in the CP.

The applicant is directed to issue notice to the ROC through 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 of hearing. Registry is also directed to

issue notice to the respondent through email. ROC is directed to file his reply, if any, within 15 days with a copy served in advance to the applicant.

List on 27.10.2021 for hearing.

15 CP/40/KOB/2020

Learned counsel for the applicant Shri Sunil N as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer appeared through VC. Mr.Arunkumar, proxy counsel of Shri Ranjit Rajappan also appeared for R5.

Learned counsel for the petitioner submitted that the petitioner has already submitted the rejoinder, but it was not accepted by the Registry stating that the permission of the Tribunal has not been obtained. Considering the facts and circumstances, Registry is directed to accept the rejoinder and place it on record.

Pleadings are complete.

Learned counsel for both sides are directed to submit their written submissions in brief (3-4 pages) two days before the next date of hearing.

List on 27.10.2021 for hearing.

16 CP/45/KOB/2020

Learned proxy counsel for the Petitioner Shri Arunkumar as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer appeared through VC. Shri Yogindunath, PCS appeared for R5. None appeared for R6.

Adjourned to 27.10.2021 for hearing.

17 CA/63/KOB/2021 IN CP/05/KOB/2021

Learned counsel for the applicant Shri Terry V James as well as learned counsel for respondents Shri Gokul Ashok appeared through VC. This CA will be heard along with the main CP.

List on 28.10.2021.

18 CP/05/KOB/2021

Learned counsel for the applicant Shri Terry V James as well as learned counsel for respondents Shri Gokul Ashok appeared through VC. Pleadings are complete.

List on 28.10.2021 for hearing.

19 CP/10/KOB/2021

Learned counsel for the petitioner Shri Javed Gaya appeared through VC and sought time to file the rejoinder. Learned senior counsel for R1 and R4 Shri

Viswanathan P as well as learned PCS for R2 & R3 Shri PP Zibi Jose appeared through VC.

The Petitioner **may file rejoinder**, if any, on or before **1.10.2021**.

List on 29.10.2021 for hearing.

20 CP/11/KOB/2021

Learned counsel for the Petitioners Shri Niranjana Sudhir as well as learned counsel for R1 Shri Tobias Powell appeared through VC.

Vide Order dated 9.8.2021 both parties were directed to file their brief written submissions (within 4-5 pages) at least 2 days before 16.09.2021. The respondent has already filed the written submissions. Since there is no written submission from the side of the learned counsel for the petitioner, it is presumed that the petitioner is not interested to submit his written submissions.

Next date fixed for final hearing. **There shall be no adjournment in this case.**

List on 08.10.2021 for final hearing (High on Board).

21 CP/21/KOB/2021

Learned counsel for the Petitioner Shri Maliekal Tobias appeared through VC. Neither ROC nor any representative appeared on behalf of him. No reply/objection filed by him. List this matter for final **hearing on 8.10.2021** along with CP./11/KOB/2021. Objection/reply of ROC, if any, may be filed well before the next date fixed.

Registry to issue a copy of this order to ROC by special messenger.

List on 08.10.2021 for hearing (High on board).