

NCLT, KOCHI BENCH**Daily Orders – Draft**

Date: 22nd December 2021

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

1 **IA(IBC)/195/KOB/2021**

This IA has been filed under Section 33(1)(a) of the IBC, 2016 by the Resolution Professional seeking liquidation of the Corporate Debtor Sree Bhadra Parks and Resorts Ltd and to appoint the RP as the Liquidator.

Learned RP Shri K.Parameswaran Nair appeared in person through VC.

He submitted that the CoC has recommended the liquidation of the Corporate Debtor with 88% voting. After hearing the RP and also on perusal of the records, we are of the opinion that the Promoters/Suspended Directors are also to be heard before taking a decision in this IA.

Therefore, all Promoters/Suspended Directors are directed appear before this Tribunal in the next date of hearing.

Registry is directed to issue copy of this Order to the Promoters/Suspended Directors of the Corporate Debtor.

List on 03.01.2022 for hearing.

2 **REPORT/118/KOB/2021 IN IBA/25/KOB/2020**

This Report has been filed under Regulation 17(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the IRP certifying the constitution of the Committee of Creditors.

Neither the IRP nor his counsel appeared through VC.

List on 03.01.2022 for the appearance of the IRP.

Registry is directed to issue copy of this Order to the IRP through email immediately.

2 REPORT/119/KOB/2021 IN IBA/25/KOB/2020

This Report has been filed under Regulation 13(1) & 2(d) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the IRP attaching the list of creditors along with the amount claimed and the claims admitted.

Neither the RP nor his counsel appeared through VC.

List on 03.01.2022 for the appearance of the IRP.

Registry is directed to issue copy of this Order to the IRP through email immediately.

3 REPORT/120/KOB/2021 IN CP(IB)/05/KOB/2021

This Report has been filed under Regulation 17(1) of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 by the Interim Resolution Professional certifying the constitution of the Committee of Creditors in the matter of CIR Process against the Corporate Debtor Samson and Sons Builders and Developers Pvt Ltd.

Perused the Report. Report is taken on record. Registry is directed to place the Report in the file of CP(IB)/05/KOB/2021.

4 CA/55/KOB/2020

Learned counsel for the Appellant Shri Bijoy P. Pulipra as well as learned counsel for R1 & R2 Shri Sandeep Gopalakrishnan appeared through VC.

During the hearing Shri Sandeep Gopalakrishnan submitted that he has filed an IA and the defects pointed out by the Registry has already been cured. Shri Bijoy Pulipra submitted that since the IA has not been listed today, the matter may be adjourned to enable him to file the reply statement against the said IA.

Shri Sandeep Gopalakrishnan is directed to serve the copy of the IA to Shri Bijoy Pulipra within 3 days, who may file the reply statement on or before 10.01.2022.

List this CA as Part Heard along with the said IA on 17.01.2022.

5 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. Asst ROC Shri Ramesh also appeared through VC.

The arguments of the learned counsel for the petitioner have already concluded. However, she submitted that even though ROC is one of the respondents in this

case, he has not yet submitted his reply statement till date. Shri Ramesh, AROC, who appeared through VC, requested two weeks time to submit the reply statement of the ROC. Since the reply statement of ROC is essential in this case he is directed to submit the same positively on or before 10.01.2022.

Shri Dhiren R. Dave submitted that since the petitioner is not a shareholder of the Company, 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.

List on 17.01.2022 for final hearing (High on Board).

5 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.

Reply has already been filed by the respondents.

As directed by this Tribunal, ROC has also filed his report in this CA.

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

List on 17.01.2022 for final hearing (High on Board).

6 CP/30/KOB/2021

Learned counsel for the Petitioners Smt Rema Smrithy as well as learned counsel for the Respondents Shri Nebil Nizar appeared through VC.

Pleadings are complete.

Smt Rema Smrithy sought an adjournment to enable her to file reply statement in the IA(C/ACT)/60/KOB/2021 filed by the Respondents. Her request is allowed.

List on 20.01.2022 for hearing.

6 IA(C/ACT)/60/KOB/2021 in CP/30/KOB/2021

This IA has been filed under Rule 43(3) of NCLT Rules, 2016 by R1, R2 and R3 seeking the following reliefs:

- (a) That the original Board Resolution dated 05.12.2020 containing the undisputed 'signature' of the 1st Respondent and the impugned Securities Transfer Form (SH-4) dated 29.01.2021 bearing the signature of the 1st Respondent be sent for examination and report of the Central Forensic Science Laboratory to ascertain the veracity regarding the alleged forgery of documents.

- (b) That the original Board Resolution dated 05.12.2020 containing the undisputed 'signature' of the 2nd Respondent and the impugned Securities Transfer Form (SH-4) dated 29.01.2021 bearing the signature of the 2nd Respondent be sent for examination and report of the Central Forensic Science Laboratory to ascertain the veracity regarding the alleged forgery of documents.

Learned counsel for the applicants Shri Nebil Nizar as well as learned counsel for the respondents Smt Rema Smrithy appeared through VC.

Smt Rema Smrithy sought an adjournment to enable her to file reply statement against this IA. Her request is allowed and she is directed to file the reply statement on or before 10.01.2022.

List on 20.01.2022 for hearing.

7 **IA(IBC)/184/KOB/2021 IN CP(IB)/91/CB/2018**

This IA has been filed under Section 35(N) and 60(5) of the IBC, 2016 by the Liquidator seeking replacement of the Liquidator.

Learned liquidator Shri Ramakrishnan Balakrishnan appeared in person along with his counsel Smt Merin Thaliath. Learned counsel for the CD Shri Harikumar also appeared through VC.

As directed by this Tribunal vide Order dated 07.12.2021 the suspended director of the Corporate Debtor Shri Zachariah John also appeared through VC.

Smt Merin Thaliath submitted that the suspended directors are not co-operating and even the keys of the building of the CD have also not been provided to the liquidator. On the other hand, Shri Zachariah John submitted that the suspended directors and the owner of the building are ready to give all assistance to the Liquidator in the liquidation process. The submission of the Suspended Director is recorded.

The Promoters/Suspended directors and the building owner of the Corporate Debtor are hereby directed to hand over all keys of the Corporate Debtor Company to the liquidator on 03.01.2021 to enable the liquidator to open the Company premises in their presence. The suspended directors are also directed to fulfil all requirements of the Liquidator on or before 03.01.2022.

The liquidator is directed to submit a detailed report with regard to the inventory of assets and book of accounts of the Company on or before 20.01.2022.

List on 24.01.2022 for hearing.

8 IA(IBC)/118/KOB/2021 IN IBA/41/KOB/2020

Learned counsel for the Applicant/Corporate Debtor Shri Peer Mohammed as well as learned IRP Shri Jasin Jose appeared through VC. None appeared for R1.

Learned IRP Shri Jasin Jose submitted that the Suspended Directors are not co-operating with the CIR Process. Reply Statement filed by the IRP is on record.

The Bench pointed out that the CoC members have not been made as a party in this IA even though one of the reliefs sought is to declare the minutes of the meeting of CoC on 19th May 2021, void for all purposes of law under CIRP. Shri Peer Mohammed sought an adjournment to enable the Applicant to implead the members of CoC as respondents in this IA. He may do so within a week.

List on 24.01.2022 for hearing.

9 IBA/42/KOB/2020

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri G. Sivasankar appeared through VC.

Learned counsel for both the parties argued and concluded their submissions.

Reserved for Orders.

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

10 IBA/43/KOB/2020

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri Ravi Chandran appeared through VC.

Since the IA(IBC)/171/KOB/2021 in this case is Reserved for Orders, list this IBA on 24.01.2022.

10 IA(IBC)/171/KOB/2021 IN IBA/43/KOB/2020

Learned counsel for the Personal Guarantor Shri K.S.Ravi Chandran as well as learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

Learned counsel for both the parties argued and concluded their submissions.

Reserved for Orders.

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

11 IBA/44/KOB/2020

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri Ravi Chandran appeared through VC.

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri Ravi Chandran appeared through VC.

Since the IA(IBC)/170/KOB/2021 in this case is Reserved for Orders, list this IBA on 24.01.2022.

11 IA(IBC)/170/KOB/2021 IN IBA/44/KOB/2020

Learned counsel for the Personal Guarantor Shri K.S.Ravi Chandran as well as learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

Learned counsel for both the parties argued and concluded their submissions.

Reserved for Orders.

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

12 IBA/45/KOB/2020

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri Ravi Chandran appeared through VC.

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Personal Guarantor Shri Ravi Chandran appeared through VC.

Since the IA(IBC)/172/KOB/2021 in this case is Reserved for Orders, list this IBA on 24.01.2022.

12 IA(IBC)/172/KOB/2021 IN IBA/45/KOB/2020

Learned counsel for the Personal Guarantor Shri K.S.Ravi Chandran as well as learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

Learned counsel for both the parties argued and concluded their submissions.

Reserved for Orders.

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

13 CP(IB)/8/KOB/2021

Learned counsel for the Financial Creditor Shri Sunil Shankar as well as learned counsel for the Corporate Debtor Shri C.K.Karunakaran appeared through VC.

Heard both sides.

Shri C.K.Karunakaran submitted that there is scope for a settlement in this case. Reacting to the above, Shri Sunil Shankar submitted that the possibility of a settlement can be explored.

In view of the above submissions, the FC and CD may sit together in the Office of the Financial Creditor on or before 31.12.2021 and explore the possibility of an amicable settlement in this case. The FC is directed to file a Memo as to what transpired in their joint meeting at least 3 days before the next date fixed. The parties may bear in mind that if the settlement talk fails, the case will be decided by this Tribunal in accordance with the provisions of IBC, 2016.

List on 05.01.2022 for the Memo of the FC.

13 IA(IBC)/149/KOB/2021 IN CP(IB)/8/KOB/2021

This is an IA filed by the applicant/Corporate Debtor against the Respondent/ Financial Creditor under Rule 11 of NCLT Rules, 2016 praying to accept the additional objections.

This IA will be considered along with the main CP(IB).

List on 05.01.2022.

13 IA(IBC)/150/KOB/2021 IN CP(IB)/8/KOB/2021

This is an IA filed by the Applicant/Corporate Debtor against the Respondent Financial Creditor under Rule 11 of NCLT Rules 2016 praying for consideration of question of maintainability of the Petition filed under Section 7 by the FC as a preliminary issue.

This IA will be considered along with the main CP(IB).

List on 05.01.2022.

13 **IA(IBC)/193/KOB/2021 IN CP(IB)/8/KOB/2021**

This IA has been filed by the Financial Creditor The Federal Bank Ltd with the prayer to post the CP(IB)/8/KOB/2021 to a near date to hear and pass appropriate orders therein.

Learned counsel for the Applicant Shri Sunil Shankar as well as learned counsel for the Respondent Shri C.K.Karunakaran appeared through VC.

Since CP(IB)/8/KOB/2021 has already been heard, this IA(IBC)/193/KOB/2021 has become infructuous and hence dismissed.

14 **CP(IB)/43/KOB/2021**

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

Learned counsel for the Financial Creditor Shri Vinod PV as well as learned counsel for the Corporate Debtor Smt. Manjulla appeared through VC.

Smt. Manjula submitted that Reply Statement has already been filed on-line and the hard copy will be filed today itself. She also prayed to condone the delay of 4 days in filing the Reply Statement. Allowed. Registry is directed to accept the Reply Statement, if it is otherwise in order. Smt. Manjula also sought to file some additional documents in support of the Reply Statement. She is allowed to file such additional documents, serving copy of the same to the petitioner, within a week.

List on 21.01.2022 for hearing.

15 **CP/39/KOB/2020**

Learned counsel for the Petitioner Shri Jerin Asher Sojan as well as learned counsel for the R2 Shri Krishnakumar appeared through VC.

Learned counsel for both the parties submitted that they are interested to settle the matter amicably through a mediator and accordingly suggested the name of Shri K.R.Jinan, retired Member of NCLT.

Both the parties are directed to file the written consent of Shri K.R.Jinan to act as the Mediator in this case on or before 31.12.2021.

List on 06.01.2022 for hearing.