

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 23rd Sept 2021

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

1 COMPANY APPEAL/15/KOB/2021

Learned counsel for the Appellant Shri Philip Mathew as well as learned counsel for the Respondents Shri Blaze K. Jose appeared through VC.

This is a CA filed by Shri Johan Varuthunny against Pulikot Credit and Investments Pvt Ltd and 4 others under Section 59(1) of the Companies Act, 2013 seeking rectification of the share register of the R1 Company.

When the matter was taken up today, it was pointed out to the learned counsel for the Appellant that as per Section 58(3) or 59 of NCLT Rules, 2016 the following documents are required in this matter:

“Documentary evidence in support of the statements made in the petition including the copy of the letter written by the petitioner to the company for purpose of registering the transfer of, or the transmission of the right to, any share or interest in, or debentures as also a copy of the letter of refusal of the company”.

The respondents are directed to file reply within two weeks.

List on **27.10.2021 (Upto 4)**

2 COMPANY APPEAL/16/KOB/2021

Learned counsel for the Appellant Shri Philip Mathew appeared through VC.

This is a CA filed by Shri Ajal Varuthunny against Pulikot Credit and Investments Pvt Ltd and 4 others under Section 59(1) of the Companies Act, 2013 seeking rectification of the share register of the R1 Company.

When the matter was taken up today, it was pointed out to the learned counsel for the Appellant that as per Section 58(3) or 59 of NCLT Rules, 2016 the following documents are required in this matter:

“Documentary evidence in support of the statements made in the petition including the copy of the letter written by the petitioner to the company for purpose of

registering the transfer of, or the transmission of the right to, any share or interest in, or debentures as also a copy of the letter of refusal of the company”.

In addition to the above, it is noticed that the power of attorney produced by the applicant is not a general power of attorney.

The respondents are directed to file reply within two weeks.

List on **27.10.2021**

3 COMPANY APPEAL/17/KOB/2021

Learned counsel for the Appellant Shri Philip Mathew appeared through VC.

This is a CA filed by Ms Mini Jacob against Pulikot Credit and Investments Pvt Ltd and 4 others under Section 59(1) of the Companies Act, 2013 seeking rectification of the share register of the R1 Company.

When the matter was taken up today, it was pointed out to the learned counsel for the Appellant that as per Section 58(3) or 59 of NCLT Rules, 2016 the following documents are required in this matter:

“Documentary evidence in support of the statements made in the petition including the copy of the letter written by the petitioner to the company for purpose of registering the transfer of, or the transmission of the right to, any share or interest in, or debentures as also a copy of the letter of refusal of the company”.

The respondents are directed to file reply within two weeks.

List on **27.10.2021**

4 COMPANY APPEAL/18/KOB/2021

Learned counsel for the Appellant Shri Philip Mathew appeared through VC.

This is a CA filed by Shri Pulikottil Varuthunny Ittikuru against Pulikot Credit and Investments Pvt Ltd and 4 others under Section 59(1) of the Companies Act, 2013 seeking rectification of the share register of the R1 Company.

When the matter was taken up today, it was pointed out to the learned counsel for the Appellant that as per Section 58(3) or 59 of NCLT Rules, 2016 the following documents are required in this matter:

“Documentary evidence in support of the statements made in the petition including the copy of the letter written by the petitioner to the company for purpose of registering the transfer of, or the transmission of the right to, any share or interest in, or debentures as also a copy of the letter of refusal of the company”.

The respondents are directed to file reply within two weeks.

List on **27.10.2021**

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

This is a Contempt of Court case filed by the Petitioner (Monitoring Agent) under Section 60(5) of the IBC, 2016 read with Section 425 of the Companies Act, 2013 and Section 12 of the Contempt of Court Act, 1970.

The Contempt Petitioner Shri Bijoy Prabhakaran Pulipra vide mail dated 22.09.2021 sought an adjournment stating that his office has been closed for a week after two of his staff tested positive for Covid 19, consequently he is unable to access the case records.

At the request of the Contempt Petitioner, the case is adjourned to **21.10.2021**.

6 IA(IBC)/139/KOB/2021 IN IBA/04/KOB/2020

This is an IA filed by the RP under Section 33(2) of IBC 2016 seeking initiation of Liquidation of the CD and appointment of the applicant as the Liquidator of the CD.

The learned RP Shri K.Easwara Pillai appeared in person through VC.

The RP is directed to keep ready of the balance sheets of the CD for the last 5 years, ie from 2014-15 onwards, and file the comparative statement of assets and liabilities and Profit and Loss account of the CD for the last 5 years before this Tribunal on or before 30.09.2021.

List on 04.10.2021 for hearing.

7 IA(IBC)/140/KOB/2021 IN TIBA/07/KOB/2019

This is an IA filed by the Liquidator under Section 44(2) of the IBC Liquidation Process Regulations, 2016 seeking extension of the liquidation period upto 16.03.2022 and to exclude the lockdown period of 90 days (01.05.2021 to 31.07.2021) from the liquidation period and also seeking direction to the Police Authorities / Revenue Authorities to cease (sic) two cars and also to hand over the car records / shop room keys / furniture and fixtures to the liquidator to complete the sales process.

The learned liquidator Shri Jasin Jose appeared in person through VC. After hearing the liquidator, the following orders are passed:

- (i) The lock down period of 3 months (01.05.2021 to 31.07.2021) is excluded from the period of liquidation process and the Liquidator is directed to complete the Liquidation of the Corporate Debtor on or before 15.12.2021.

- (ii) The Suspended Directors and Promoters of the Corporate Debtor are directed to appear through video conferencing, before this Tribunal on 28.09.2021.

The liquidator is directed to serve copy of this Order to the Suspended Directors and Promoters for compliance.

Registry is also directed to issue copy of this order to the Liquidator and Suspended Directors and Promoters through email, for which the Liquidator is directed to produce the email ids of the above persons immediately.

List on 28.09.2021 for hearing.

8 IA(C/ACT)/18/KOB/2021 IN CP/40/KOB/2020

This is an IA filed by the applicant/petitioner against R1 to R6 with the prayer to dispose of CA/71 of 2021 and CA/87 of 2021 at the earliest and also praying to conduct speedy trial of the CP.

Learned counsel for the applicant Shri Yogindunath S appeared through VC. None appeared for the respondents.

It appears from records that vide order dated 16.09.2021 the main CP/40/KOB/2020 is posted for hearing on 27.10.2021 since pleadings are complete and that the connected IAs also will be considered along with the main CP..

Therefore, **IA(C/ACT)/18/KOB/2021 IN CP/40/KOB/2020 for early disposal is impliedly allowed since we have already decided to hear the matter along with the main CP.**

9 IVNP/4/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the intervening applicants Shri Santhosh Mathew as well as learned RP Shri Vinod PV appeared through VC.

This is an IA filed by the applicants/interveners under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules praying to intervene in IA(IBC)/87/KOB/2021.

Shri Vinod PV has already filed the reply.

List on 08.10.2021 for hearing.

10 IA(IBC)/122/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019

Learned RP Shri Vinod PV appeared in person through VC.

This is an IA filed under Rule 11 of NCLT Rules, 2016 read with Section 5 of the Liquidation Act for condonation of delay in filing the liquidation application.

Heard and perused the records.

After hearing the learned RP, this Tribunal is on the opinion that the delay of 53 days may be condoned. Hence the delay of 53 days from 10.04.2021 to 01.06.2021 in filing the Liquidation Application IA(IBC)/87/KOB/2021 is allowed.

IA(IBC)/122/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019 stands allowed accordingly.

11 IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

RP Shri Vinod Padinhare Veetil appeared through VC.

This is an application filed by the RP under Section 33(1)(a) of IBC 2016 for liquidation of the CD.

This IA will be heard along with the related IAs.

List on 08.10.2021 for hearing.

12 IA(IBC)/141/KOB/2021 IN IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the Applicant/ RP Shri Vinod PV as well as learned counsel for the OC Shri Santhosh Mathew appeared through VC.

This is an IA filed by the RP under Rule 11 of the NCLT Rules, 2016 to permit the applicant to correct the voting share of Financial Creditors in Para 6 of the IA(IBC)/87/KOB/2021 with the correction sought in Para 4 of this IA.

Heard and perused the records.

On hearing the parties, this Tribunal of the opinion that the the prayer of the Applicant/RP may be allowed. Hence the **IA(IBC)/141/KOB/2021 IN IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019 stands allowed. Necessary corrections be carried out by the Registry.**

13 IA(IBC)92/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the Applicant/OC Shri Santhosh Mathew as well as learned RP Shri Vinod PV appeared through VC.

This IA has been filed by the OC seeking the following reliefs:

- (a) Direct the Resolution Professional to grant the Applicants access to all the documents submitted by the Financial Creditors pertaining to claim made before the Resolution Professional;
- (b) Direct the conduct of a forensic audit by an independent third-party auditor into the amounts that have been lend by Respondents 4 to 13 to the Corporate Debtor and the amounts recovered.
- (c) Stay further proceedings in the Corporate Insolvency Resolution Process of the Corporate Debtor till such time the forensic audit is complete.
- (d) Restrain the 3rd Respondent Resolution Professional from acting as the Resolution Professional or the liquidator.
- (e) Pass such further orders in the interests of justice and equity.

Due to network problem, this IA is adjourned to 08.10.2021.

14 CP(IB)/8/KOB/2021

Due to network problem, this case is adjourned to 01.10.2021.

15 IA(IBC)/108/KOB/2021 IN CP(IB)/9/KOB/2021

Due to network problem, this case is adjourned to 05.10.2021.

16 CP(IB)/9/KOB/2021

Due to network problem, this case is adjourned to 05.10.2021.

17 CP/22/KOB/2020

Due to network problem, this case is adjourned to 02.11.2021.

18 CP/28/KOB/2020

Due to network problem, this case is adjourned to 03.11.2021.

19 CP/36/KOB/2020

Due to network problem, this case is adjourned to 22.11.2021.