

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 24th Sept 2021

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

1 CP(IB)/31/KOB/2021

This is a Petition filed under Section 59(7) of the IBC, 2016 by the Liquidator of Framework Systems and Solutions Pvt Ltd for dissolution of the Corporate Person Framework Systems and Solutions Pvt Ltd.

Learned Liquidator Shri Pankaj Lunawat appeared through VC along with his learned counsel Shri Udit Agarwal.

List on 27.10.2021 for detailed hearing.

2 CP/34/KOB/2021

This is a Petition filed by Mrs Sunija Darsan against the respondents Mr Shelly Chandrangadan and others alleging violation of the Companies Act, 2013 by the respondents.

Learned counsel for the Petitioner Shri Arun K. Kamalolbhavan appeared through VC. Adv. Harikrishnan appeared for the respondents and sought time to file vakalath and counter.

Respondents are directed to file the counter within three weeks.

List on 28.10.2021 for hearing.

3 CONT.APPL(C/ACT)/3/KOB/2021 IN IA/47/KOB/2019 IN TCP/54/KOB/19 (TCP/108/16)

This is a Contempt Petition 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 Shri Mohan Pulickkal appeared through VC.

We have perused the whole case records also have heard the learned counsel for the Contempt Petitioner.

Registry is directed to issue notice to the Respondents/Contemnors directing them to file reply affidavit and show cause as to why contempt should not be initiated against them for the alleged non-compliance of the directions of this Tribunal within two weeks from the date of receipt of notice.

List on 21.10.2021.

4 IA(C/ACT)/17/KOB/2021 IN TCP/34/KOB/2019

This an IA filed by the petitioner/2nd Petitioner against the Respondents under Rule 11 of the NCLT Rules, 2016 read with Section 51 of the Civil Procedure Code praying to declare that the borrowing made by the R1 Company to the tune of Rs.2,61,23,000/- is illegal and to stay the consideration of the Special Business No.3 in the Notice of 22nd Annual General Meeting of the R1 Company, it being in violation of Annexure A1 (Order dated 19.06.2019 of NCLT, Chennai Bench).

Learned counsel for the Petitioner Shri P.K.Suresh Kumar appeared through VC. Learned senior counsel for R1-R3 Shri Joseph Kodianthara, learned PCS for R4, R8, R9, R10 & R11 Shri Zibi Jose appeared through VC. None appeared for R6 & R7.

After hearing the learned counsel for both sides and after perusal of the whole case records, Respondents are hereby directed not to mortgage any of the assets of the R1 Company for enlarging the borrowing of the R1 Company. The 22nd AGM of the R1 Company can be held as scheduled by the Board of Directors. The petitioner is directed to serve full copy of this IA to the learned senior counsel of R1-R3.

Respondents are also directed to file reply against this IA within three weeks.

List on 02.11.2021 for hearing.

5 MA(IB)/22/KOB/2021 IN IBA/258/CB/2019

Learned counsel for the applicant Smt Latha K as well as learned liquidator Shri Ravindra Chaturvedi appeared through VC along with his counsel Shri Akhil Suresh.

This is an appeal under section 42 of the IBC, 2016 filed by the applicant Shri P.X.Xavier against the Liquidator alleging that the liquidators act of rejecting and disallowing appellants claim is erroneous.

The liquidator is directed to file reply against this MA within two weeks.

List on 02.11.2021 for hearing.

6 MA(IB)/23/KOB/2021 IN IBA/258/CB/2019

Learned counsel for the applicant Shri P.V.Mohanan as well as learned liquidator Shri Ravindra Chaturvedi appeared through VC.

This is an appeal under section 42 of the IBC, 2016 filed by the applicant Shri Sanil PD against the Liquidator alleging that the liquidators act of rejecting and disallowing appellants claim is erroneous.

The liquidator is directed to file reply against this MA within two weeks.

List on 02.11.2021 for hearing.

7 IA(IBC)/113/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/3/KOB/2019

Learned counsel for the applicant Shri Vinod PV as well as learned counsel for the Respondent Ms Jinnu Sara George appeared through VC.

This is an application filed by the former Resolution Professional of the Corporate Debtor seeking direction to the Respondent Shri Joshy M to refund and transfer Rs.4,58,238/- to the account of HNL maintained at Central Bank of India, which was wrongly credited to his account and to pass an order directing the Branch Manager, State Bank of India, Ponganadu Branch to reverse the transaction of Rs.4,58,238/- credited to the account of the Respondent from HNL. Reply filed by the respondent is on record.

The Branch Manager, State Bank of India, Ponganadu Branch is directed to reverse the transaction of Rs.4,58,230/- credited to the account of Shri Joshy M (Respondent) to the account of HNL maintained in Central Bank of India. The respondent is directed not to draw the amount of Rs. 4,58,230/- from his account until further orders.

Registry is directed to issue copy of this order to the Branch Manager, State Bank of India, Ponganadu Branch and the respondent immediately.

Reserved for orders.

8 CP/124/KOB/2019

None appeared for the petitioner. It is reported that Shri Joseph Kodianthara, learned senior counsel relinquished the vakalath for the petitioner. Shri PP Zibi Jose appeared for the respondents and stated that during the last posting, learned counsel for petitioner sought time to file the settlement memo. But no settlement memo is seen filed. Since the learned counsel has relinquished the vakalath, Registry issued notice to the petitioner, which has been returned stating the postal remarks "Left India".

In view of the above and also the fact that none appeared for the petitioner today, we are of the opinion that this CP should be dismissed for non-prosecution.

Accordingly, **CP/124/KOB/2019 stands dismissed vide separate sheets.**

9 CP/49/KOB/2020

Learned PCS for the petitioners Shri Vivek Kumar as well as learned counsel for R1 to R4 Shri Terry V. James appeared through VC.

Today this case is posted for final hearing. Vide order dated 16.08.2021 the learned counsel for both the parties were directed to submit their written submissions in brief (within 4-5 pages) on or before 22.9.2021. Written submission of the petitioner is on record. Shri Terry V. James submitted that the soft copy of the written submissions has already submitted and that the hard copy will be filed within two days. He may do so positively within two days.

List on 05.11.2021 for final hearing.

10 CP/30/KOB/2021

Learned counsel for the Petitioners Smt. Rema Smrithi V.K. appeared through VC. It appears from records that Adv Shri Nebil Nizar, who appeared through VC in the last date hearing stated that he will file vakalath and counter for the respondents. But neither vakkalath nor counter filed till date. Shri Nebil Nizar sought some more time to file the vakkalath and counter. He is given the last opportunity to file the counter on or before **08.10.2021** failing which law will take its own course. Asst ROC Shri Ramesh also appeared through VC representing ROC/R4.

List on 05.11.2021 for hearing.

11 IA(C/ACT)/19/KOB/2021 IN CP/31/KOB/2021

Learned counsel for the Applicant Shri Dinesh R. Shenoy as well as learned counsel for R1 to R3 Shri V.V.Sidharthan appeared through VC. Asst ROC Shri Ramesh also appeared through VC representing ROC/R4.

This is an IA filed by the applicant/petitioner against the respondents with the prayer to appoint an Advocate Commissioner to authenticate the statutory records of the Company.

The petitioner is directed to serve copy of this IA to the learned counsel for R1 to R3 Shri V.V.Sidharthan within a week. The respondent may file his reply two days before the next date fixed.

List on 05.10.2021 for hearing.

12 IA(C/ACT)/20/KOB/2021 IN CP/31/KOB/2021

Learned counsel for the Applicant Shri Dinesh R. Shenoy as well as learned counsel for R1 to R3 Shri VV.Sidharthan appeared through VC. Asst ROC Shri Ramesh also appeared through VC representing ROC/R4.

This is an IA filed by the applicant/petitioner against the respondents with the prayer to stay the EGM to be held on 07.10.2021.

This IA will be heard along with the related IA.

List on 05.10.2021 for hearing.

13 CP/31/KOB/2021

Learned counsel for the Petitioner Shri Dinesh R. Shenoy as well as learned counsel for R1 to R3 Shri VV. Sidharthan appeared through VC. Asst ROC Shri Ramesh also appeared through VC representing ROC/R4.

Pleadings are complete. ROC has also filed the report.

List on 05.10.2021 for hearing.

14 CA(CAA)/2/KOB/2021

Learned counsel for the Applicant Shri Sumit Agarwal appeared through VC.

Shri Sumit Agarwal submitted that he has not made any change in the appointed date in the Scheme of Amalgamation. But the amended petition has already been filed before the Registry.

List on 07.10.2021 for hearing.

15 CA(CAA)/3/KOB/2021

Learned counsel for the Applicant Shri Sumit Agarwal appeared through VC.

Shri Sumit Agarwal submitted that he has not made any change in the appointed date in the Scheme of Amalgamation. But the amended petition has already been filed before the Registry.

List on 07.10.2021 for hearing.