

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

Date: 25th Oct 2021

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

1 CA/65/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

Vide order dated 11.8.2021 the right to file the counter by R2 & R3 was forfeited due to their non-compliance of the order of this Tribunal.

Adv Sajen Thampan submitted that no counter has been filed and hence insisted to pass orders in this IA in the interest of justice.

Heard the learned counsel for both the parties and perused the records.

Reserved for Orders.

2 IA(C/ACT)/14/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Akhil Suresh as well as learned counsel for R1 Shri Sajen Thampan appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is an IA filed by the applicant/R1 under Rule 49(2) read with Rule 11 of the NCLT Rules 2016 with the prayer to recall and set aside the order dated 22.07.2021 to the extent it sets the Applicant Company as ex-parte.

The Bench observed that the Vakkalath filed by Shri Akhil Suresh for the applicant/R1 Company is not supported by the Board Resolution. Hence he is directed to submit the Board Resolution within a week.

List on 11.11.2021.

3 COMP.APPL/94/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is an IA filed by the applicant/petitioner under Section 424(2)(b) of the Companies Act, 2013 read with Rule 131 of the NCLT Rules 2016 seeking direction to R1 to R3 to produce certain documents.

This IA will be heard along with the main CP.

List on 11.11.2021.

4 COMP.APPL/95/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is an IA filed by the applicant/petitioner under Rule 32 read with Rules 11, 15 and 42 of the NCLT Rules 2016 with the prayer to enlarge the time for filing the rejoinder by the petitioner until the respondents 1 to 3 produce the documents as prayed for.

This IA will be heard along with the main CP.

List on 11.11.2021.

5 CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through V

R1 was set exparte vide order dated 22.07.2021. The Bench observed that the Vakalat filed by Shri Akhil Suresh for the applicant/R1 Company is not supported by the Board Resolution. Hence he is directed to submit the Board Resolution within a week.

R2 & R3 have filed their counter. The right to file counter in respect of R4 was forfeited vide order dated 17.09.2021 due to the non-compliance of the order of this Tribunal.

List on 11.11.2021 for final hearing (High on Board).

6 CA/66/KOB/2021 IN CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

Vide order dated 11.8.2021 the right to file the counter by R2 & R3 was forfeited due to their non-compliance of the order of this Tribunal.

Adv Sajen Thampan submitted that no counter has been filed and hence he insisted to pass orders in this IA in the interest of justice.

Heard the learned counsel for both the parties and perused the records.

Reserved for Orders.

7 IA(C/ACT)/15/KOB/2021 IN CP/26/KOB/2021

This is an IA filed by the applicant/R1 under Rule 49(2) read with Rule 11 of the NCLT Rules 2016 with the prayer to recall and set aside the order dated 22.07.2021 to the extent it sets the Applicant Company as ex-parte.

R1 was set exparte vide order dated 22.07.2021. The Bench observed that the Vakalat filed by Shri Akhil Suresh for R1 along with the IA filed by the R1 to set aside the aforesaid ex parte order is not supported by the Board Resolution. Hence he is directed to submit the Board Resolution within a week.

List on 11.11.2021.

8 COMP.APPL/93/KOB/2021 IN CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is a CA filed by the applicant/petitioner under Section 424(2)(b) of the Companies Act, 2013 read with Rule 131 of the NCLT Rules 2016 seeking direction to R1 to R3 to produce certain documents.

This CA will be heard along with the main CP.

List on 11.11.2021.

9 COMP.APPL/96/KOB/2021 IN CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is a CA filed by the applicant/petitioner under Rule 32 read with Rules 11, 15 and 42 of the NCLT Rules 2016 with the prayer to enlarge the time for filing the rejoinder by the petitioner until the respondents 1 to 3 produce the documents as prayed for.

This IA will be heard along with the main CP.

List on 11.11.2021.

10 CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. Learned counsel for R4 Smt. Anila Peter also appeared through VC.

R1 was set exparte vide order dated 22.07.2021. The Bench observed that the Vakalat filed by Shri Akhil Suresh for the applicant/R1 Company is not supported by the Board Resolution. Hence he is directed to submit the Board Resolution within a week.

R2 & R3 have filed their counter. The right to file counter in respect of R4 was forfeited vide order dated 17.09.2021 due to the non-compliance of the order of this Tribunal.

List on 11.11.2021 for final hearing (High on Board).

11 IVNP/6/KOB/2021 IN IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

This is an IA filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 by Union Bank of India, leader of the Consortium of lenders of the Corporate Debtor with the prayer to permit them to intervene in **IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019**.

Adv Nidhi Sam John appeared through VC for the Intervening petitioner. The Resolution Professional Shri Vinod PV appeared in person through VC.

Shri Vinod PV submitted that he is not raising any objection against this Intervening Petition.

Heard both sides.

Reserved for Orders.

12 IA(IBC)/142/KOB/2021 IN IBA/04/KOB/2020

This is an IA filed by the RP under Section 67 of IBC, 2016 seeking certain directions against the Corporate Debtor.

The RP Shri K. Easwara Pillai appeared in person through VC. Learned counsel for R1 & R2 Shri Joyce and learned counsel for R5 Shri P.R.Lakshmanan also appeared through VC.

Vide Order dated 28.9.2021 the respondents were directed to file their counter on or before 15.10.2021. But no counter has been filed till date. Learned counsel for R1, R2 & R5 sought some more time to file the counter. In the interest of justice, they are granted time to file the counter on or before 10.11.2021 positively.

It appears from records that notice was duly served to R3 & R4 on 11.10.2021. But they have neither filed the counter nor appeared today through VC. **Therefore R3 & R4 are hereby set ex parte.**

List on 18.11.2021 for hearing.

13 IA(IBC)/125/KOB/2021 IN IBA/35/KOB/2020

Learned counsel for the IRP Smt. J. Parimala appeared through VC. Learned counsel for the Corporate Debtor Shri Vikram Karla also appeared through VC.

Both the parties submitted that the Hon'ble NCLAT has stayed the constitution of Committee of Creditors and the case is listed before NCLAT on 26.10.2021.

In view of the above, let this IA be adjourned to 24.11.2021.

14 IBA/42/KOB/2020

Learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and submitted that he has already filed the report under Section 99 of the IBC, 2016. Registry informed that the report of the RP was filed on the last working day, ie. on 22.10.2021 and the same is under their scrutiny.

List on 15.11.2021 for hearing.

15 IBA/43/KOB/2020

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

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and submitted that he has already filed the report under Section 99 of the IBC, 2016. Registry informed that the report of the RP was filed on the last working day, ie. on 22.10.2021 and the same is under their scrutiny.

Shri K.S.Ravi Chandran submitted that he has filed an IA today raising the maintainability of this IBA, which Registry informed that the same is also under their scrutiny.

List on 15.11.2021 for hearing.

16 IBA/44/KOB/2020

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

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and submitted that he has already filed the report under Section 99 of the IBC. Registry informed that the report of the RP was filed on the last working day, ie. on 22.10.2021 and the same is under their scrutiny.

Shri K.S.Ravi Chandran submitted that he has filed an IA today raising the maintainability of this IBA, which Registry informed that the same is also under their scrutiny.

List on 15.11.2021 for hearing.

17 IBA/45/KOB/2020

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

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and submitted that he has already filed the report under Section 99 of the IBC. Registry informed that the report of the RP was filed on the last working day, ie. on 22.10.2021 and the same is under their scrutiny.

Shri K.S.Ravi Chandran submitted that he has filed an IA today raising the maintainability of this IBA, which Registry informed that the same is also under their scrutiny.

List on 15.11.2021 for hearing.

18 TIA/2/KOB/2019 (IA183/2019) IN TCP/42/KOB/2019

Adv Shri S.V.Rajan appeared for the petitioners through VC. Learned counsel for the Respondents 1 to 4 Shri Pranoy Harilal also appeared through VC.

Pleadings are complete.

List on 06.12.2021 for hearing.

19 CA/31/KOB/2021 IN TCP/42/KOB/2019

Adv Shri S.V.Rajan appeared for the petitioners through VC. Learned counsel for the Respondents 1 to 4 Shri Pranoy Harilal also appeared through VC.

This CA has been filed by the applicant/petitioner for changing his counsel on record Shri K.S. Ravi Chandran and to engage Shri S.V.Rajan, Advocate and his associates as his counsel representing him in this case.

Vide order dated 16.8.2021 the petitioner was directed to settle the matter with their earlier counsel and submit NOC and vakalath of the present counsel, before the next date fixed.

It appears from the records that the petitioner has complied the required formalities. Hence **CA/31/KOB/2021 IN TCP/42/KOB/2019 stands allowed.**

20 COMP.APPL/92/KOB/2021 IN TCP/42/KOB/2019

This is a CA filed by the applicant/2nd respondent with the prayer to accept and take on record copies of additional documents (Annexures B1 to B6).

Learned counsel for the Applicant/R2 Shri Pranoy Harilal as well as learned counsel for the respondents Shri S.V.Rajan appeared through VC.

This CA will be heard along with the main CP.

List on 06.12.2021 for hearing.

21 TCP/42/KOB/2019

Adv Shri S.V.Rajan appeared for the petitioners through VC. Learned counsel for the Respondents 1 to 4 Shri Pranoy Harilal also appeared through VC.

Pleadings are complete.

List on 06.12.2021 for hearing.

Learned counsel for both the parties are directed to submit their written submissions in brief (3-4 pages) at least two days before the above date.

22 IA(C/ACT)/30/KOB/2021 IN TCP/51/KOB/2019

Learned counsel for the Applicant Shri A.M.Sridharan appeared through VC. None appeared for the respondents.

This is an IA filed by the Applicant/Petitioner with the prayer to implead Ms Amulya, Ms Beena P.K. and Ms Bijila P.K. as 14th, 15th and 16th respondents respectively to the amended petition.

The Applicant/Petitioner is directed to issue fresh notice to the aforesaid R14, R15 and R16 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 aforesaid respondents through email. R14, R15 and R16 are directed to file their counter within three weeks.

List on 07.12.2021.

23 TCP/51/KOB/2019

Learned counsel for the Petitioner Shri A.M.Sridharan appeared through. None appeared for the respondents.

Shri Sridharan submitted that due to improper audio hearing, an error has occurred in the proceedings of this Tribunal on 16.09.2021. It was recorded in the Daily Order on that date that the R2 was expired. This is an inadvertent mistake. Actually, R2 is alive and has already filed the counter in this case.

In view of the above submission of Shri Sridharan, the sentence, ie. **"Today both the parties submitted that R2 also expired"** is hereby deleted from the Daily Order dated 16.09.2021. Registry is directed to make necessary corrections in the Daily Order accordingly.

List on 07.12.2021.

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.**

24 CP(CA)/33/KOB/2021

Learned counsel for the Petitioners Shri Shaijan C. George appeared through VC. Learned counsel for R2 Shri Chitransh Vijayvergia and learned counsel for R5 Smt Nigi George also appeared through VC. None appeared for other respondents

Vide order dated 15.09.2021 the respondents were directed to file the counter within three weeks. But no counter has been filed till date. The Respondents are hereby given the last opportunity to file the counter on or before 15.11.2021 serving advance copy to the Petitioner, who may file the rejoinder, if any, on or before 22.11.2021.

List on 24.11.2021 for hearing.

25 IA(C/ACT)/12/KOB/2021 IN CP/08/KOB/2021

Learned PCS for the applicant Shri Zibi Jose appeared through VC. Learned counsel for R1 to R8 Shri Pranoy Harilal and learned counsel for R9 Shri Ashwin Sathyanath also appeared through VC.

Today this IA is posted for final hearing. But, Shri Pranoy Harilal sought an adjournment to enable his senior to argue the case, who is now under medical treatment.

At the request of the learned counsel for R1 to R8, the matter is adjourned to 03.11.2021 for hearing.

26 CP/08/KOB/2021

Learned PCS for the Petitioner Sri P.P.Zibi Jose as well as learned counsel for R1-R8 Shri Pranoy Harilal appeared through VC.

Pleadings are complete.

Today this CP is posted for final hearing. But, Shri Pranoy Harilal sought an adjournment to enable his senior to argue the case, who is now under medical treatment.

At the request of the learned counsel for R1 to R8, the matter is adjourned to 03.11.2021 for hearing.