

NCLT, KOCHI BENCH**Daily Orders**

Date: 29th Nov 2021

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

1 **CP/114/KOB/2019**

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

Learned counsel for both the parties may submit additional written submissions, if any, in brief (limiting 3-4 pages) within 3 days.

1 **IA/58/KOB/2019 IN CP/114/KOB/2019**

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

1 IA 83/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA has been filed with the main prayer to appoint an Advocate Commissioner to act as interim Managing Director of the Company, under the supervision of this Tribunal, to preside over the meetings of the Board of the Company.

Learned counsel for the applicant Shri Sukumar Ninan Oommen today submitted that the documents sought for have already been produced and hence there is no requirement of appointment of Advocate Commissioner in this case. He has stated that, hence this IA has become infrctuous.

In view of the above submission of the learned counsel for the Applicant, the **IA 83/KOB/2020 IN CP/114/KOB/2019 is dismissed as infructuous.**

1 IA/87/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the applicant Shri Sukumar Ninan Oommen as well as learned counsel for respondents Shri George G. Poothicote, PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

1 IA/95/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

1 IA(C/ACT)/34/KOB/2021 IN CP/114/KOB/2019

This is an IA filed by the applicants/petitioners under section 193 & 200 of IPC, 1860 read with sections 195 & 340 of the CrPC, 1973 read with Sections 424, 447, 448 and 449 of the Companies Act, 2013.

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

2 CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri George G.Poothicote , learned PCS for R3 Shri P.P.Zibi Jose and learned PCS for R4 Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

Learned counsel for both the parties may submit additional written submissions, if any, in brief (limiting 3-4 pages) within 3 days.

2

IA/65/KOB/2019 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

2

IA/84/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA has been filed with the main prayer to appoint an Advocate Commissioner to act as interim Managing Director of the Company, under the supervision of this Tribunal, to preside over the meetings of the Board of the Company.

Learned counsel for the applicant Shri Sukumar Ninan Oommen today submitted that the documents sought for have already been produced and hence there is no requirement of appointment of Advocate Commissioner in this case. He has stated that, hence this IA has become infructuous.

In view of the above submission of the learned counsel for the Applicant, the **IA 84/KOB/2020 IN CP/119/KOB/2019 is dismissed as infructuous.**

2

IA/86/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

2

IA/93/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

3

CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri George Poothicote, learned PCS for R3 Shri P.P.Zibi Jose and learned PCS for R4 Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

Learned counsel for both the parties may submit additional written submissions, if any, in brief (limiting 3-4 pages) within 3 days.

3

IA/85/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA has been filed with the main prayer to appoint an Advocate Commissioner to act as interim Managing Director of the Company, under the supervision of this Tribunal, to preside over the meetings of the Board of the Company.

Learned counsel for the applicant Shri Sukumar Ninan Oommen today submitted that the documents sought for have already been produced and hence there is no requirement of appointment of Advocate Commissioner in this case. He has stated that, hence this IA has become infructuous.

In view of the above submission of the learned counsel for the Applicant, the **IA 85/KOB/2020 IN CP/125/KOB/2019 is dismissed as infructuous.**

3

IA/88/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

3

IA/94/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

4

CP/98/KOB/2019

Learned counsel for the Petitioner Shri Sherry Samuel Oommen appeared through VC. Learned PCS for R4 Shri Zibi Jose and learned PCS for R3 Shri Sumit Agarwal appeared through VC.

Learned counsel for both the parties argued and concluded.

Reserved for Orders.

5

CP/99/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan appeared through VC. Learned PCS for R3 Shri Zibi Jose also appeared through VC. None appeared for R4.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

5

CONTEMPT PETITION/08/KOB/2020 IN CP/99/KOB/2019

Learned counsel for the Contempt Petitioner Shri Sukumar Nainan Oommen appeared through VC. None appeared for the Respondent.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

6

CP/100/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan appeared through VC. Learned PCS for R3 Shri Zibi Jose also appeared through VC. None appeared for R4.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

7

CP/101/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan appeared through VC. Learned PCS for R3 Shri Zibi Jose also appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

8

CP/102/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan appeared through VC. Learned PCS for R3 Shri Zibi Jose also appeared through VC. None appeared for R4.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

9

CP/103/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan appeared through VC. Learned PCS for R3 Shri Zibi Jose also appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 20.01.2022 for hearing.

10

CP/25/KOB/2020

Learned PCS for the Petitioner Shri PP Zibi Jose as well as learned counsel for R2, R4 & R5 Shri Sukumar Nainan Oommen appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

11

CP/26/KOB/2020

Learned PCS for the Petitioner Shri PP Zibi Jose as well as learned counsel for R2, R4 & R5 Shri Sukumar Nainan Oommen appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

12

CP/27/KOB/2020

Learned PCS for the Petitioner Shri PP Zibi Jose as well as learned counsel for R2, R4 & R5 Shri Sukumar Nainan Oommen appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

13

CA/64/KOB/2020

Learned counsel for the Applicant Shri George G. Poothicote appeared through VC. Learned counsel for R1 Shri Sherry Samuel Oommen, learned counsel for R2, R3 & R5 Shri Sukumar Nainan Oommen and learned counsel for R4 Shri P.P.Zibi Jose appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

14

CA/84/KOB/2020

Learned PCS for the Applicant Shri PP Zibi Jose appeared through VC. Learned counsel for R1 Shri Sherry Samuel Oommen and learned counsel for R2, R3 & R5 Shri Sukumar Nainan Oommen appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

15

CP/02/KOB/2021

Learned counsel for the Petitioner Shri George G. Poothicote appeared through VC. Learned counsel for R1 Shri Sherry Samuel Oommen, learned counsel for R2 & R3 Shri Sukumar Nainan Oommen and learned counsel for R5 Shri P.P.Zibi Jose appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

15

CA/46/KOB/2021 IN CP/02/KOB/2021

Learned counsel for the Applicant Shri Sukumar Nainan Oommen as well as learned counsel for the Respondent Shri George G. Poothicote appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

15

CA/47/KOB/2021 IN CP/02/KOB/2021

Learned counsel for the Applicant Shri Sukumar Nainan Oommen as well as learned counsel for the Respondent Shri George G. Poothicote appeared through VC.

Since there was a direction to hear these matters after hearing the 241-242 cases, this CP will be heard after hearing those cases.

List on 21.01.2022 for hearing.

16

IBA/34/KOB/2020

None appeared for the applicant. Learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the said Writ Petition was finally heard by the Hon'ble High of Kerala on 29.06.2021 and orders reserved, but the orders are yet to be pronounced.

In view of the above, let this matter be adjourned to 04.01.2022.

16

MA/187/KOB/2020 IN IBA/34/KOB/2020

None appeared for the applicant. Learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the said Writ Petition was finally heard by the Hon'ble High of Kerala on 29.06.2021 and orders reserved, but the orders are yet to be pronounced.

In view of the above, let this matter be adjourned to 04.01.2022.

17

TCP/21/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for Respondents 3-6 Smt.CG Preetha also appeared through VC. None appeared for other parties.

Today the matter is posted for the appointment of a new Administrator, in view of the resignation of Hon'ble Mr.Justice K.Narayana Kurup, Administrator appointed by this Tribunal. On his request vide order dated 29th September, 2021 this Tribunal accepted his request for resignation. However, he was allowed to act as the Care Taker Administrator of R1 Company until the Administrator takes charge. By the same order the petitioners and respondents have directed to suggest the name of a new Administrator through an affidavit within two weeks.

Pursuant thereto, the petitioner filed an affidavit on 20.10. 2021 suggesting the name of **Mr. Jinan K.R., former District Judge, Kerala Higher Judicial and former Judicial Member, NCLT Kokota Bench, residing at House No.12/92, Kocheril, Ochanthuruth PO, Ernakulam-682508.**

The Respondents 3 to 6 have filed an affidavit on 22.11.2021 suggesting the name of **Mr. Justice J.M. James (Retired High Court Judge - Kerala High Court) residing at Smrithi, TC 26.939, Vanchiyoore PO, Thiruvananthapuram-695035.**

Both parties have not submitted the consent of the aforesaid persons.

Taking into consideration of the experience in the field of Company matters as a Member of the National Company Law Tribunal, this Tribunal appoints **Mr. K.R. Jinan, former Judicial Member and District Judge** as the Administrator of the R1 company. The duties assigned to the former Administrator shall continue to be undertaken by the newly appointed Administrator. However, his monthly remuneration is fixed as Rs. 60,000/- (Rupees sixty thousand only). **He shall submit his consent to act as the Administrator within two days of receipt of this order.**

Shri K.R. Jinan, Administrator will take charge immediately from the Caretaker Administrator on receipt of this order, not later than ten days from today. The Caretaker Administrator will hand over all the charges to the Administrator now appointed.

Registry will issue copy of this order to the learned Administrator as also to the Learned Caretaker Administrator by email.

List this TCP on 04.01.2022.

18

CA/55/KOB/2020

Learned counsel for the Appellant Shri Bijoy P. Pulipra as well as learned counsel for R1 & R2 Smt Jinnu Sarah George appeared through VC.

Shri Bijoy P. Pulipra argued and concluded. Learned counsel for the respondents stated that she has filed an affidavit, which the Registry reported that it is defective. She has agreed to cure the defects and resubmit it within three days.

She sought an adjournment for her arguments.

List on 8.12.2021 as Part Heard.

19

COMPANY APPEAL/20/KOB/2021

This CA has been filed under Section 252 of the Companies Act, 2013 by M/s. Septagon Builders and Developers Pvt Ltd against the Registrar of Companies for restoration of the Appellant Company in the Register of Companies.

Learned counsel for the appellant Shri Shivsankar stated that as directed by this Tribunal he has filed the affidavit, which is on record.

Even though during last hearing Assistant ROC appeared and stated that he has not received the copy of the appeal, the appellant was directed to serve copy of the same to ROC, who has agreed to file report within a week. Though the copy was duly served, ROC has not filed his report till date. Registry is directed to issue a copy of this order to the ROC immediately, who is directed to file report in this matter within five days.

List on 6.12.2021.

20

CP/104/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

List on 8.12.2021 for final hearing.

20

IA(C/ACT/6/KOB/2021 IN CP/104/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC

Learned counsel for the respondents R1,R2,R20 & R25 stated that he has filed an IA to condone the delay in filing the counter, which is not listed today.

List on 8.12.2021 for hearing.

21

CP/112/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

List on 8.12.2021 for final hearing.

21

IA(C/ACT)/5/KOB/2021 IN CP/112/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nedyalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC

Learned counsel for the respondents R1,R2,R20 & R25 stated that he has filed an IA to condone the delay in filing the counter, which is not listed today.

List on 8.12.2021 for hearing.

22

CP/113/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nedyalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

List on 8.12.2021 for final hearing.

22

IA(C/ACT)/4/KOB/2021 IN CP/113/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nedyalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

Learned counsel for the respondents R1,R2,R20 & R25 stated that he has filed an IA to condone the delay in filing the counter, which is not listed today.

List on 8.12.2021 for final hearing.

