

NCLT, KOCHI BENCH

Daily Orders – Purely for reference purpose

Date 31st Jan 2022

Coram: **Shri Anil Kumar B.**
Hon'ble Member (Technical)

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 REVW APPLN/2/KOB/2022

This Review Application has been filed under Section 420(2) of the Companies Act, 2013 read with Rule 154 of the NCLT Rules, 2016 by the Applicants/Petitioners for rectification of Common Order dated 31.12.2021 in CP/114/KOB/2019, CP/119/KOB/2019, CP/125/KOB/2019 and connected IAs.

Learned counsel for the applicants Smt Nidhi Jacob, learned counsel for R1 & R2 Shri George G. Poothicote, learned counsel for R3 Shri Zibi Jose and learned counsel for R4 Shri Sumit Agarwal appeared through VC.

Smt Nidhi Jacob sought an adjournment stating that her senior is affected Covid 19. At her request the case is adjourned.

The respondents are directed to file reply statement, if any, to this Review Application on or before 15.02.2022.

List on 22.02.2022 for hearing.

2 REST.APPLN(C/ACT)/1/KOB/2022

This Restoration application has been filed under Rule 48 of NCLT Rules, 2016 by the Applicant/Petitioner with the prayer to restore the Company Petition No.37/KOB/2020 on the file of this Tribunal.

Learned counsel for the Applicant Shri K. Biju appeared through VC.

It appears that CP/37/KOB/2020 was dismissed for default and non-prosecution Vide Order dated 30.07.2021.

Shri Biju submitted that the non-appearance of the counsel was due to non-availability of link and there was no wilful laches or negligence on the part of the counsel for non-representation of the case.

On hearing the learned counsel for the applicant, we are of the considered view that the prayer of the Applicants be allowed on the condition that the applicant pays the costs of Rs.3,000/- (Rupees three thousand only) to the accounts of "Ministry of

Corporate Affairs” within one week from today and submit proof of payment before the next date of hearing.

Accordingly, REST.APPLN(C/ACT)/1/KOB/2022 stands allowed and CP/37/KOB/2020 is restored. Registry is directed to list the CP, immediately after receipt of costs paid.

The Petitioner in the CP is directed to file the rejoinder, if any, at least 7 days before the next date fixed.

3 CP(IBC)/24/KOB/2021

Learned counsel for the IRP Shri Vinod PV, learned counsel for the Operational Creditor Smt. Merin Thaliath and learned counsel for the Corporate Debtor Shri Pranoy Harilal appeared through VC.

Since IA(IBC)/16/KOB/2022 filed by the IRP for withdrawal of the CIR process has been allowed, this CP(IBC)/24/KOB/2021 is also dismissed as withdrawn vide separate Order.

3 IA(IBC)/16/KOB/2022

This application has been filed under Section 12A of IBC, 2016 READ WITH Regulation 30A(1)(A) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the IRP for withdrawal of the CIR Process.

Learned counsel for the IRP Shri Vinod PV, learned counsel for the Operational Creditor Smt. Merin Thaliath and learned counsel for the Corporate Debtor Shri Pranoy Harilal appeared through VC.

The learned counsel for the IRP submitted that the parties have settled the disputes amicably and filed FORM-FA prior to constitution of the CoC and hence this IA has been filed for withdrawal of the CIR Process.

Hears both sides and perused the records.

IA(IBC)/16/KOB/2022 stands allowed vide separate Order.

4 IA(IBC)/187/KOB/2021 IN IBA/13/KOB/2020

This IA has been filed under Section 65(1) of the IBC, 2016 by the Resolution Professional seeking the following prayers:

- (i) *Direct the respondent to deposit Rs.4,43,377/- forthwith to the account of the RP maintained for the purpose of CIRP towards contribution towards its share of CIRP Cost;*
- (ii) *If the respondent failed to deposit Rs.4,43,377/- to the account of the RP, impose a maximum penalty of Rs.1 crore to the respondent for initiating insolvency resolution process with malicious intends under Section 60(1) of the IBC, 2016 in addition to CIRP Cost.*

Learned IRP Shri K. Parameswaran Nair appeared in person through VC along with his counsel Shri Vinod PV. Adv Smt Smt Sivaranjini appeared through VC for the Respondent/Operational Creditor.

Shri P.R.Shanmugham, Director of Sri Ramani Resorts & Hotels Pvt Ltd, who appeared in person through VC stated that he has already deposited Rs. One lakh in the account of the IRP and sought some more time to deposit the balance amount.

He is directed to deposit the balance amount within two weeks.

List on 17.12.2022.

4 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. Adv Shri T.M.Abdul Lathief appeared through VC for the Suspended Director Shri Narayanan Namboothiri.

It appears from records that the CoC has recommended the liquidation of the Corporate Debtor with 88% voting right.

On 03.01.2022 Shri Abdul Lathief appeared through VC stating that he represents the Suspended Directors and the Resolution of his clients will be submitted by tomorrow, ie. on 04.01.2022. Since no Resolution Plan was submitted even as on 07.01.2022 Shri Abdul Lathief was further given time upto 21.01.2022 vide Order dated 07.01.2022 to submit the Resolution Plan before the CoC. It was also made clear in the aforesaid Order that no further time till be granted for filing the Resolution Plan and on failure to do so, further Orders in the IA will be passed.

But no Resolution Plan has been submitted before the CoC till date.

Shri Abdul Lathief today submitted that he has filed an appeal before the Hon'ble Supreme Court, but he failed to show any screen shot of any Admission/Stay Order by the Hon'ble Supreme Court.

On the other hand, learned RP Shri K.Parameswaran Nair vehemently opposed the submissions of Shri Abdul Lathief and stated that the CoC has already resolved to liquidate the CD and no Resolution Plan is available with them as on date.

Heard the arguments of both sides and perused the whole case records.

IA(IBC)/195/KOB/2021 is reserved for orders.

5 IA(IBC)/2/KOB/2022

This IA has been filed under Section 21 (6A) (b) of IBC, 2016 read with Regulations 2(1)(aa), 4A, 16A of the IBB(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the IRP Shri Lukose Joseph with the prayer to appoint Shri Vibin Vincent and Shri K. Parameswaran Nair as the Authorised Representatives for Financial Creditors for the class of 'Home Buyers' and 'Deposit holders' respectively.

During the course of hearing, the IRP ShriLukose Joseph submitted that he wants to withdraw this IA as here is a proposal to appoint Shri Parameswaran Nair as the RP in this matter.

At his request, **IA(IBC)/2/KOB/2022 stands dismissed as withdrawn.**

5 IA(IBC)/14/KOB/2022 in CP(IB)/05/KOB/2021

This IA has been filed under Section 23(3)(b) of IBC, 2016 by the IRP with the prayer to appoint Shri K. Parameswaran Nair as Resolution Professional of the Corporate Debtor.

Learned IRP Shri Lukose Jose appeared in person through VC along with his counsel Shri M.A.Shaji.

Today the case is posted for the clarification from the IRP as to why the IRP is to be changed. Neither the IRP nor his learned counsel could not submit any valid explanation as to why the IRP is to be changed.

The IRP is directed to file his explanations stating valid reasons for changing the IRP within 7 days, failing which, this Tribunal will take appropriate action to intimate the IBBI for appropriate steps.

Adjourned to 10.02.2022 for hearing.

6 CP(IB)/1/KOB/2022

This Petition has been filed under Section 9 of the IBC, 2016 by the Operational Creditor Uralungal Labour Contract Co-operative Society Limited to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor Perambra Coconut Producer Company Ltd.

Learned counsel for the Operational Creditor Smt. Anju Davis K appeared through VC.

It appears from records that the OC has already filed the proof of service.

But neither the CD appeared through VC nor filed any reply statement.

The Operational Creditor is directed to make necessary paper publications in English Daily "Financial Express" and Malayalam Daily "Mathrubhoomi" which have wide circulation, not less than 10 days before the date fixed for the hearing and file proof of publication before the next date fixed.

Lit on 07.03.2022 for hearing.

7 CP/22/KOB/2020

Learned counsel for the Petitioners Shri Aswin Gopakumar as well as learned counsel for R2 Smt. Manjulla Devi and learned counsel for R3 & R4 Shri Nikhil Narayanan appeared through VC.

At the request of the learned counsel for the Petitioners, the case is adjourned to 08.03.2022 for hearing.

Both the parties are directed to submit their written submissions in brief (limiting 3-4 pages) at least 3 days before the above date.