

NATIONAL COMPANY LAW TRIBUNAL KOCHI BENCH

CORAM:
SHRI VINAY GOEL, HON'BLE MEMBER (JUDICIAL)

PETITION No./IA No.	IBA/30/KOB/2020
SECTION	SEC.9 IBC
NAME OF PARTIES	SHAJI MATHEW V/S SEGURO FOUNDATIONS & STRUCTURES PVT LTD & ANOTHER
PETITIONERS ADVOCATE/ PROFESSIONAL	HARI KUMAR G NAIR & AKHIL SURESH
RESPONDENTS ADVOCATE/ PROFESSIONAL	ADITYA VENUGOPAL

13 APRIL 2026

O R D E R

IBA/30/KOB/2020

Proxy Counsel appears for the applicant through virtual mode.

Vide Order dated 10.04.2026, while admitting the Petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, this Adjudicating Authority appointed Mr. Sankar P. Panicker as the Interim Resolution Professional from the panel prepared in accordance with the Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2025 issued by the Insolvency and Bankruptcy Board of India, and directed him to submit his written consent to act as such within three days from the date of receipt of the Order.

However, Mr. Sankar P. Panicker, vide his letter dated 11.04.2026, showed his inability to continue with the assignment, stating that certain professional services had

(2)

been rendered in the past by him and his relatives to the Corporate Debtor as well as to certain parties involved in the dispute.

Accordingly, this Adjudicating Authority appoints **Mr. Jossy Steephen Kattur, bearing Registration No. IBBI/IPA-002/IP-N01056/2021-2022/13627, residing at Barons 16 C, Skyline Imperial Gardens, Next to IMA House, Behind JLN Stadium, Kaloor, Stadium Link Road, Kaloor, Ernakulam, Kerala – 682 025, E-mail: jossysk@gmail.com,** from the panel of the Insolvency and Bankruptcy Board of India, as the Interim Resolution Professional of the Respondent/Corporate Debtor.

The remaining directions contained in the Order dated 10.04.2026 shall remain unchanged.

The Registry is directed to place this Order on the file of IBA/30/KOB/2020 and upload the same on the DMS portal. Further, the Registry is directed to forward a copy of this Order, along with the main Order, to the Interim Resolution Professional so as to enable him to submit his written consent within three days. This Order will be a part of the earlier Order, and accordingly, the Interim Resolution Professional previously appointed stands substituted by the person named herein.

**Sd/-
VINAY GOEL
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IBA/30/KOB/2020

(Under Section 9 of the IBC, 2016)

Date of Institution: 12.03.2020

Order delivered on:10.04.2026

In the matter of: -

M/s. Seguro Foundations and Structures Pvt Limited.

Memo of parties:

1. Mr. Shaji Mathew (Deceased) Through Legal Representatives:

No.10, Ten Hunts, Divine Park, CSEZ Post,
Kakkanad – 682 037.

E-mail: shajimathew16@gmail.com

...Original Petitioner/Operational Creditor

1.1. Mrs. Tessy Shaji

W/o Late Shaji Mathew
Residing at Thattamparambil,
12/1815 No. 10, Tens Hunts, Divine
Park, CSEZ Post, Kakkanad-682037

1.2. Mr. Tobias Mathew

S/o Late Shaji Mathew
residing at Thattamparambil,
12/1815 No. 10, Tens Hunts,
Divine Park, CSEZ Post,
Kakkanad-682037

.. Additional Petitioners/Operational Creditors

Vs.

1. M/s. Seguro Foundations and Structures Pvt Ltd

Having registered office at:

Door No. 27/635, A4, 11th Floor,
Chakkappan Centre, Toll Gate, Edappally,
Kochi-682 024.

... Respondent No. 1 /Corporate Debtor

2. M/s. Inkel Limited

Head office at Door No. 7/473 ZA 5 & 6
Ajiyal Complex, Kakkanad, Ernakulam – 682 030.

...Respondent No. 2/Additional Corporate Debtor

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL

Appearances:

For the Petitioner : Mr. Harikumar G Nair, Advocate

Respondent No. 1/Corporate Debtor: **Set Ex parte vide order dated
03.02.2026.**

For Respondent No. 2 : Mr. Aditya Venugopal, Advocate

ORDER

1. This petition has been filed by Mr. Shaji Mathew (hereinafter referred to as 'Petitioner/Operational Creditor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code"), for initiating the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against the Corporate Debtor M/s. Seguro Foundations & Structures Private Limited.
2. The RespondentNo.1/Corporate Debtor, M/s. Seguro Foundations & Structures Pvt Ltd (CIN – U45200KL2007PTC021501) was incorporated on 03rd December 2007 with Authorised Share Capital of Rs.10,00,00,000/- and Paid-up Share Capital of Rs. 9,54,19,200/-. Therefore, this Bench has jurisdiction to deal with this Petition.
3. The total amount claimed to be in default, as set out in Part IV of the Petition, is Rs.11,02,400/- (Rupees Eleven Lakhs Two Thousand Four Hundred Only),



consisting of a principal amount of Rs.10,40,000/- and interest at the rate of 12% per annum amounting to Rs. 62,400/- up to 31.12.2019, along with future interest.

4. Brief facts of the case, as stated in the petition, are as follows:

- a) The Petitioner/Operational Creditor was appointed as the project manager for the modernisation of Schools in Malappuram District w.e.f. 01.06.2018 vide appointment letter dated 28.05.2018.
- b) The Operational Creditor was assigned responsibility for 4 out of the 10 schools forming part of the project and was entitled to a consolidated salary of Rs. 80,000/- (Rupees Eighty Thousand Only) as per the appointment letter dated 28.05.2018. The Operational Creditor duly performed his duties with diligence and professionalism; however, the Corporate Debtor abruptly stopped paying his salary from December without any prior notice.
- c) It is submitted that the Operational Creditor has not been terminated from employment as per the appointment letter. Despite issuing several reminders, including a letter dated 17.05.2019 and email reminders dated 13.06.2019, 01.08.2019, and 21.12.2019, the Corporate Debtor failed to respond or clear the outstanding dues. The Operational Creditor is therefore entitled to receive salary arrears of Rs.10,40,000/- (Rupees Ten Lakhs Forty Thousand Only) for the period from December 2018 to December 2019, along with interest at 12% p.a., totalling Rs. 11,02,400/-.
- d) On 22.01.2020, the Petitioner issued a Demand Notice in Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to the Corporate Debtor at its



registered office, demanding payment of Rs. 11,02,400/- (Rupees Eleven Lakhs Two Thousand Four Hundred Only). No reply raising any dispute was received within the stipulated period of ten days, nor was the outstanding amount paid. This clearly demonstrates the Corporate Debtor's failure to discharge its debt, and therefore, the Petitioner is constrained to initiate proceedings under the Insolvency and Bankruptcy Code, 2016, for commencement of the Corporate Insolvency Resolution Process.

e) It is submitted that a sum of Rs.80,000/- first became due on 01.01.2019 and subsequently on the 1st day of each succeeding month until 01.01.2020, towards salary payable at the rate of Rs. 80,000/- per month for the preceding month. The Petitioner maintained a running account in respect of the Corporate Debtor, and the last payment was received on 13.06.2019. Accordingly, the date of default is considered to be 14.06.2019.

5. It appears from the records that during the hearing held on 16.09.2020, the counsel for the Petitioner submitted that the majority of the shares of the Corporate Debtor are held by M/s. INKEL Ltd, and that most of the assets of the Corporate Debtor have been alienated to the said INKEL. Therefore, the impleadment of M/s. INKEL Ltd, as Respondent No. 2/Additional Corporate Debtor, was considered necessary. Accordingly, this Adjudicating Authority permitted the filing of an application for the impleading of M/s. INKEL Ltd. Vide order dated 26.11.2020 in IA/187/KOB/2020, M/s. INKEL Ltd. was impleaded as Respondent No. 2/Additional Corporate Debtor.

6. Aggrieved by the order dated 26.11.2020, M/s. INKEL Ltd. filed Company Appeal (AT) (Ins) No. 83 of 2021 dated 15.06.2021 before the Hon'ble NCLAT. The Hon'ble NCLAT granted a stay in the matter. Further, Respondent No. 2 also



filed **Civil Appeal No. 10773 of 2024** before the Hon'ble Supreme Court of India against the order dated 26.11.2020 passed in IA/187/KOB/2020 in IBA/30/KOB/2020. Vide order dated 01.10.2024, the Hon'ble Supreme Court granted a stay in the matter. Subsequently, vide order dated 03.02.2025, the Hon'ble Supreme Court directed that the interim relief granted shall continue to operate till the final disposal of the appeal. However, the Hon'ble Supreme Court also observed that the main Petition under Section 9 of the IBC, 2016, may proceed against the original Corporate Debtor.

7. The present petition was filed on 12.03.2020 before this Adjudicating Authority by Mr. Shaji Mathew, the original Petitioner/Operational Creditor. During the pendency of the matter, the original Petitioner passed away on 12.09.2025. Vide Order dated 27.11.2025 in IA(IBC)/452/KOB/2025 in IBA/30/KOB/2020, the legal heirs, namely Mrs. Tessy Shaji and Mr. Tobias Mathew, were substituted as petitioners, being 1.1 and 1.2.

ANALYSIS AND FINDINGS:

8. This Adjudicating Authority has heard the Petitioner and perused the materials available on record.
9. The Company Petition was filed on 12.03.2020 and was registered by the Registry on 16.03.2020. Subsequently, the Central Government issued a Gazette Notification dated 24.03.2020, enhancing the threshold limit under Section 4 of the Insolvency and Bankruptcy Code, 2016 from Rs.1,00,000/- to Rs.1,00,00,000/-. Although the Respondent has been set *ex parte*, this Tribunal raised a specific query to the learned counsel for the Petitioner regarding the maintainability of the Petition in light of the revised threshold limit, particularly with reference to the date of registration of the Company Petition. In response, the learned counsel for the Petitioner relied upon the Order dated 06.04.2023



in Company Appeal (AT)(Insolvency)No.370 of 2023 & IA No.1245 of 2023
of the **Hon'ble NCLAT, New Delhi**, which is read as under:

"4. We have heard the submissions of learned counsel for the parties and perused the record.

5. The Adjudicating Authority having dismissed the application only for not fulfilling the threshold of Rs.1 crore, which does not appear to be applicable, since the application was filed in the year 2019 and subsequent registration of application will not change the date of filing. Hence, on the date of filing of the application, the threshold which was to be fulfilled by the Appellant was Rupees One Lakh only. In view of the above, impugned order dated 06.01.2023 is set aside and the application under Section 9 is revived before the Adjudicating Authority to be heard and decided in accordance with law.

6. The parties may file the copy of this order before the Adjudicating Authority within a week, and both the parties may appear before the Adjudicating Authority on 24.04.2023, which date may be fixed by Adjudicating Authority on this order being brought on record."

In light of the aforesaid judgment, this Adjudicating Authority concurs with the submissions of the learned counsel for the Petitioner that the date of filing of the Petition, on which jurisdiction vested, is the relevant date for the purpose of adjudication of the present case.

10. As per Section 9 read with Section 4 of the Insolvency and Bankruptcy Code, 2016, the present threshold amount for initiation of the Corporate Insolvency Resolution Process is Rs.1 crore. However, the present Petition was filed on 12.03.2020, at which time the minimum default threshold prescribed under Section 4 was Rs.1 lakh. Accordingly, the present Petition is governed by the earlier threshold of Rs.1 lakh. The operational debt of Rs.11,02,400/- (Rupees Eleven Lakhs Two Thousand Four Hundred only) admittedly exceeds the said threshold.

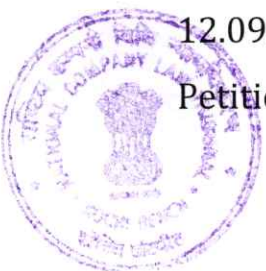
11. This Adjudicating Authority, vide order dated 07.11.2025, directed the issuance of notice to the Respondents. The notice issued to Respondent No. 1 was



returned with the postal remark "Addressee left." Accordingly, vide order dated 13.11.2025, this Adjudicating Authority directed service of notice upon Respondent No. 1 at the address available in the records of the Registrar of Companies (ROC), and notice was also served upon the counsel who had entered appearance on behalf of Respondent No. 1. Being satisfied with the service of notice and in view of the non-appearance of Respondent No. 1, this Adjudicating Authority proceeded *ex parte* against Respondent No. 1 vide order dated 03.02.2026. Consequently, Respondent No. 1 was set *ex parte*.

12. However, in the order dated 03.02.2026, it appears that there is a typographical error, as Mr. Shivsankar Panicker's presence was marked for Respondent No. 1, in fact, the learned counsel entered appearance on behalf of Respondent No. 2. Vide affidavit dated 15.12.2025, submitted before this Adjudicating Authority that he no longer had instructions to appear for Respondent No. 2. Be that as it may, service of notice upon Respondent No. 1 at the address available in the records of the Registrar of Companies (ROC) constitutes valid and sufficient service. Accordingly, in view of the non-appearance of Respondent No. 1, the matter was proceeded with *ex parte*.

13. The present Petition has been filed by the Original Petitioner/Operational Creditor seeking initiation of the Insolvency Resolution Process against the Respondent/Corporate Debtor on account of non-payment of salary for a period of 13 months, from December 2018 to December 2019. The said default constitutes an operational debt amounting to Rs.11,02,400/- (Rupees Eleven Lakhs Two Thousand Four Hundred only), inclusive of interest at 12% per annum. During the pendency of the present Petition, the Original Petitioner/Operational Creditor, Shri Shaji Mathew, passed away on 12.09.2025. In view of his demise, his legal heirs have been substituted as Petitioner Nos. 1.1 and 1.2 in the present proceedings. The present Petition



pertains to the recovery of outstanding salary dues vested in the deceased, which is not a personal right extinguished upon death, but a transmissible right that devolves upon and is enforceable by his legal representatives. Accordingly, Petitioner Nos. 1.1 and 1.2 are necessary and proper parties to continue and prosecute the present proceedings. The legal heirs are entitled to continue with this application following the death of the original applicant; accordingly, there exists no legal impediment on this account.

14. Once the Operational Creditor chooses to exercise its statutory right under Section 9 of the IBC, 2016, this Adjudicating Authority has very limited scope to interfere, provided that all statutory requirements are duly complied with and the Petition is not vitiated by fraud, collusion, or misrepresentation.
15. Respondent No. 1 has failed to appear despite due service, which indicates that he has no defence to the averments made in the Company Petition. The relationship between the Original Petitioner, Shri Shaji Mathew, and Respondent No. 1 was that of employee and employer and the quantum of salary, as well as non-payment thereof, is not in dispute. Furthermore, Respondent No. 1 has failed to produce any record of a pre-existing dispute. Once a default is established, the scope of adjudication at this stage is confined to the four corners of Section 9 of the Insolvency and Bankruptcy Code, 2016. From the documents on record, this Adjudicating Authority is satisfied that the Applicant qualifies as an Operational Creditor and that there exists an operational debt and default. The Applicant, during his lifetime, issued a notice under Section 8 of the IBC, 2016; however, the Corporate Debtor failed to comply with the demand made therein. There is nothing on record to indicate the existence of any pre-existing dispute.
16. Given the above, this Adjudicating Authority finds that this petition filed by the Operational Creditor for initiation of the Corporate Insolvency Resolution



Process (CIRP) against the Corporate Debtor is a fit case to be admitted under Section 9 of the IBC, 2016. Hence, this Adjudicating Authority order for the Corporate Insolvency Resolution Process of **M/s. Seguro Foundations and Structures Private Limited**, and accordingly admit the petition and pass the following orders:

- i. This petition bearing **IBA/30/KOB/2020**, filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, for initiating CIRP against **M/s. Seguro Foundations and Structures Private Limited** (CIN: 10793KL2024PTC086938), the Corporate Debtor, is hereby **ADMITTED**.
- ii. There will be a Moratorium under Section 14 of the Code. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- iii. The Operational Creditor has not proposed the name of the Interim Resolution Professional. Section 9 of the Insolvency and Bankruptcy Code 2016 does not make it mandatory for the Operational Creditor to propose the name of the Interim Resolution Professional. Therefore, this Adjudicating Authority appoints **Mr. Sankar P Panicker bearing Registration No. IBBI/IPA-003/IP-N00037/2017-2018/10300 having address at Paniker And Paniker, Advocates, 64/768, Jaikunj, Chittoor Road, Ernakulam, Kerala-682035, Email: sankarpanicker@gmail.com**, as an Interim Resolution Professional of the Corporate Debtor from the available list of



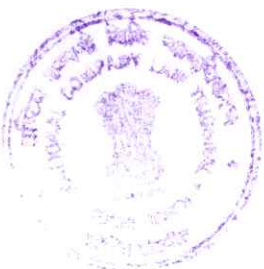
panels of Resolution Professionals as maintained by the IBBI. Therefore, the IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and a Registration Certificate within 3 days of the pronouncement of this order. Accordingly, **Mr. Sankar P Panicker** is appointed as IRP.

- iv. In pursuance of Section 13(2) of the Insolvency and Bankruptcy Code 2016, this Adjudicating Authority directs the IRP to make a public announcement immediately about the admission of this application under Section 9 of the Code. The expression immediately means within three days from the date of appointment as clarified by the explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. During the CIRP period, the management of the Corporate Debtor shall vest in the Interim Resolution Professional (IRP)/Resolution Professional (RP), as the case may be, in terms of Section 17 of the IBC. The Powers of the Board of Directors of the Corporate Debtor shall stand suspended and be exercised by the IRP/RP. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order.
- v. The designated IRP shall perform all its functions as contemplated under the Code and must take any additional actions in this regard that are mandated by the law, more specifically Sections 15, 17, and 18 of the Code. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms



of the provisions of the Code. The fee payable to IRP, or as the case may be, the IRP shall comply with such Regulations, Circulars and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out all the functions as contemplated under the Code.

- vi. During the CIRP period, the management of the Corporate Debtor shall vest with the IRP or, as the case may be, the RP in terms of Section 17 of the IBC, 2016. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow.
- vii. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- viii. The Operational Creditor shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) within two weeks from the date of receipt of this order, in order to meet out the initial expenses to perform the duties assigned to the IRP in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 and IRP is to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. This amount may not be construed as the fee paid to the IRP. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per the Rules.



- ix. It is clarified that no one appeared on behalf of Respondent No. 1, and the Petitioner has made all reasonable efforts to ascertain the correct address of Respondent No. 1. Under these circumstances, it is expected that the Petitioners shall be aware of their responsibility to bear the expenses of the Corporate Insolvency Resolution Process (CIRP), if required, in the event that no other creditors come forward in response to the invitation of claims.
- x. Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The Registrar of Companies shall send a compliance report in this regard to the Registry of this Adjudicating Authority within seven days from the date of receipt of a copy of this order.
17. Accordingly, the present Company Petition bearing No. **IBA/30/KOB/2020** is **Admitted**.
18. The Registry is hereby directed to send e-mail copies of this order forthwith to all the parties and their counsel for information and to take necessary steps. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India ("IBBI") for their record.
19. Let the certified copy of this order be issued upon compliance with the requisite formalities.
20. File be consigned to records.

Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Dated this the 10th day of April, 2026

JL/Steno



Certified to be True Copy


Assistant Registrar
National Company Law Tribunal
KOCHI BENCH
Kochi-682 021