

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

IA(IBC)/110(KOB)/2022

IN

CP(IB)/05/KOB/2021

*(Under Section 21(6A) (b) of the IBC, 2016 read with Regulation 2(1) (aa),
4A, 16A of Insolvency and Bankruptcy Board of India (Insolvency Resolution
Process for Corporate Persons) Regulations, 2016)*

Order delivered on: 01st July 2022

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)

Hon'ble Mr. Anil Kumar. B, Member (Technical)

Applicant: -

Mr. K. Parameswaran Nair,
Resolution Professional,
M/s. Samson and Sons Builders and Developers Pvt. Ltd.
37/1736 E, Kripa Sagaram, K. Murali Road
Kadavanthara P.O.,
Ernakulam, Kerala – 682 020

In the matter of: -

Operational Creditor: -

Vijayakumaran,
V. J. Constructions,
Thattankonam, Edaicode,
Kanyakumari District,
Pincode- 629 152.

Versus

Corporate Debtor: -

Samson and Sons Builders and Developers Pvt. Ltd.,
TC 3/678, Kannimattom, Muttada P.O.,
Thiruvananthapuram- 695 025.

Parties/Counsel present (through video conference)

For Applicant/IRP... Shri. K. Parameswaran Nair along with his counsel M. A. Shaji.

ORDER

Per: Ashok Kumar Borah, Member (J)

2. This IA(IBC)/110/KOB/2022 has been filed under Section 21(6A) (b) of the IBC, 2016 read with Regulation 2(1) (aa), 4A, 16A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by Mr. K. Parameswaran Nair, Insolvency Resolution Professional of M/s. Samson and Sons Builders and Developers Pvt. Ltd., seeking the following relief: -

➤ *To appoint Mr. Vibin Vincent (IBBI/IPA-001/IP-P01997/2020-2021/13134) and Mrs Celine P. Thomas (IBBI/IPA-001/IP-P02358/2021-2022/13612) as the Authorized Representatives for financial creditors for the class of creditors for the 'Home Buyers' and 'Deposit Holders' respectively.*

The brief facts of the case are as under: -

3. The application for initiation of the Corporate Insolvency Resolution Process, (CP(IB)/05/KOB/2021) was filed under Section 9 of the Insolvency and Bankruptcy Code by Mr. Vijayakumaran against the Corporate Debtor M/s. Samson and Sons Builders and Developers Pvt. Ltd. was admitted by this Tribunal vide its order dated 03rd March 2021 and appointed an Interim Resolution Professional, who was directed to take necessary steps in accordance with the relevant provisions of the Insolvency and Bankruptcy

Code. Thereafter the Applicant was appointed as the Resolution Professional of the Corporate Debtor.

4. The Resolution Professional stated that upon appointment and on perusal of the records, it was understood that there were shortfalls in the public announcement made in the prescribed format. Hence, he had published an addendum to the Public Announcement (Form A dated 15-11-2021) in two newspapers in which the name of three Insolvency Professionals eligible to be Authorised Agents for the class of creditors 'Deposit Holders' as contemplated under Regulation 3 of Insolvency and Bankruptcy Board of India (CIRP) Regulations 2016 and entitled to act as Authorized Representative of the class of creditors 'Deposit Holders' upon obtaining their consent.
5. It is further stated that the class of creditors i.e., Home Buyers had submitted their claim in Form CA before him and proposed Mr. Vibin Vincent (IBBI/IPA-001/IP-P01997/2020-2021/13134) an Insolvency Professional to act as Authorized Representative on their behalf. The Resolution Professional obtained the consent of each of the home buyers to appoint Shri. Vibin Vincent to act as their "Authorized Representative".
6. It is also stated that the class of creditors i.e. Deposit Holders had submitted their claim in Form CA before him and proposed Mrs. Celine P Thomas (IBBI/IPA-001/ IP-PO2358/ 2021-2022/ 13612), an Insolvency Professional to act as their Authorized Representative. The Resolution Professional obtained the consent of each of the Deposit Holders to appoint Ms. Celine P Thomas to act as their "Authorized Representative".

7. It is stated that as contemplated under Regulation 16A(1) of the IBBI Regulations (CIRP) 2016, an Insolvency Professional was required to be selected as Authorized Representative, who is the choice of the highest number of financial creditors in a class for Home Buyers, the voting share and number of choices received by each proposed Authorized Representatives for the class of home buyers is as under:

Sl No.	Name of the Insolvency Professional	No. Of choices	% of votes
1.	Vibin Vincent	82	57.47
2.	P. R. Srinivasan	52	27.46
3.	Krishna Raj	9	6.99

8. Accordingly, Shri. Vibin Vincent with the highest voting shares i.e., 57.47% was elected as the Authorized Representative for the class of creditors for the class of Home Buyers.

9. It is also stated that as contemplated under Regulations 16A (1) of the IBBI Regulations (CIRP) 2016, an Insolvency Professional was required to be selected as Authorized Representative, who is the choice of the highest number of financial creditors in a class for Deposit Holders, the voting share and number of choices received by each proposed Authorized Representatives for the class of deposit holders is as given below: -

Sl No.	Name of the Insolvency Professional	No. of choice	% of Votes.
1.	Rajendran P. R.	2	6.87
2.	Celine P. Thomas	8	77.24
3.	Krishna Raj	-	-

10. Accordingly, Mrs. Celine P Thomas with the highest number of voting shares i.e., 77.24% was elected as the Authorized Representative for the class of creditors for the class of Deposit Holders.
11. It is further stated that the elected Insolvency Professionals viz, Mr. Vibin Vincent and Ms. Celine P Thomas have given their consent to act as the Authorized Representatives for the class of creditors "Home Buyers" and the class of creditors "Deposit Holders" respectively in Form AB respectively. They have also produced the AFA issued by the Indian Institute of Insolvency Professionals of ICAI.
12. It is stated that in compliance with Section 21(6A) (6) of the Insolvency and Bankruptcy Code 2016, has filed this Application along with the list of financial creditors falling under the class of creditors for "Home Buyers" and "Deposit Holders" together with their individual consent to appoint Mr. Vibin Vincent and Ms. Celine P Thomas as the Authorized Representatives of the class of creditors of Home Buyers and class of creditors Deposit Holders respectively.

13. On 03.06.2022 this Tribunal directed the Applicant/ Resolution Professional to file the segregated authorisation letters given by the Home Buyers and Deposit Holders separately. In compliance with the direction, on 07.06.2022 the Applicant produced the same. The name of Deposit Holders of the Corporate Debtor who have selected Mrs. Celin P Thomas are as under: -

1. Anil Kumar S.
2. Lijin John, Leelamma Varghese and Ajin I John.
3. Mathunny J.
4. Aniamma Varghese.
5. Annamma P.I.
6. K.A. Jacob.
7. Salini V. Johan.
8. Lizymol.

14. The name of Home Buyers of the Corporate Debtor who have selected Mr. Vibin Vincent are as under: -

1. Philip Varghese.
2. James Philip Koshy & Elezabath George.
3. Jiji Joseph.
4. Haridas T.R.
5. Sajeevan Neelakantan N.
6. Jeesha C. Haran & Subha N.
7. Parvathi Babu S.
8. Raj S.
9. Anwar Hussain Rawther.

10. Sharafudeen S.
11. Arun George.
12. Abraham George.
13. Abraham Simon.
14. Poulose Godfrey.
15. Linoy Paul John.
16. Saril Kumar Valiyaparambil.
17. Biju K. Thomas.
18. Dr. Jacob Paul.
19. Khadar Alaudeen Nadeera.
20. Suja Mathew.
21. Daniel James.
22. Mathew Elenjickal Jacob & Valsamma Mathew.
23. Thomas Koshy.
24. Dr. P.V. John.
25. M. A. K. Ameenulla.
26. Abraham John & Dolly Abraham.
27. Rachel Mathew.
28. Loretta Jayarani Franclin Desayose.
29. Anish Franclin Desayose.
30. Salini V. Johans.
31. B.G. Jeyasing.
32. Baby MAthewkutty & Titty Kutty Mathew.
33. Subash Nair.

34. Geetha Jeevan.
35. Gloria Jose.
36. V. R. Gopakumar.
37. Kripa Ananthalekshmi.
38. Manoj Kurien Cheriyan & Ardra Kurien.
39. Abraham Mathew.
40. M. Lalitha (Related party).
41. Dr. Reeby Sara Thomas, POA- Varughese Thomas.
42. Mathews Koshy.
43. O. Omman Panicker.
44. Radhamonyamma P.S.
45. Lucy Mathew & Tomy Abraham.
46. Sanej C. Nair.
47. Satheesan Kartha & Sangeetha S. Kartha.
48. Shibu John MATHEW.
49. K.S. Simon.
50. M. Mohammed Hussain.
51. Bija Raveendran Nair & Sreeja Raj.
52. Mini Alex Varghese.
53. Dr. Ancy Dsouza.
54. Equbal P.E. & Asha Shani Ruksana.
55. Dr. C.R. Manoj (POA V. K. Rajendran).
56. K. Suresh Kumar.
57. Martin Dominic.

58. Puthenpurakal Abraham Jose & Mrs. Anitha Jose.
59. Patricia Dsouza.
60. Leelamma Philipose.
61. Shaju Thomas.
62. Sinara Vijayan.
63. Dr. Sonia M. Lal and Dr. Nikhil Raj.
64. Sunil George Thomas.
65. A.C. Oommen.
66. Alza Grace Varghese & Mr. Jackson P. Jose.
67. Arul C. Wilson.
68. Jonny Paul.
69. Saramma Mathew.
70. Sudhakaran Nair C.R. & Prasanna S.
71. Johnson Jacob & Susy Johnson.
72. Saji Kunjukutty.
73. V. Raveendran Pillai.
74. Philip Mathew.
75. Sajeev C.S.
76. Shyja Jamal and Subaida Beevi.
77. K.V. Samuel.
78. P.K. Mathew & Vimala Mathew.
79. Samuel G.T. & Sheela Samuel.
80. Winston Noel Dhas Gnanam.
81. Jayakumar.

82. George Joseph.

15. We have heard Shri. M.A. Shaji, the learned counsel for the Applicant along with the Applicant-Resolution Professional, and perused the entire documents including the Form CA produced duly signed by all the class of creditors for the Home Buyers and class of creditors for the Deposit Holders of the Corporate Debtor. We have also gone through Section 21(6A)(b) of the IBC, 2016 which is quoted below: -

Section 21-Committee of creditors.

(6A) Where a financial debt-

*(a) ******

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

16. We have also verified the Authorisation of Assignment produced by Mr. Vibin Vincent and Mrs. Celine P. Thomas. We could see that their authorization is valid upto 13.12.2022 and 09.06.2022 respectively.

17. It is seen from the documents produced that the Applicant/Resolution Professional has complied with all the procedures prescribed under the law. Since this Tribunal is satisfied that Mr. Vibin Vincent and Mrs. Celine P. Thomas who were selected by the Home Buyers and Deposit Holders respectively to act as their Authorized Representative, they may be appointed as the Authorized Representatives of Home Buyers and class of creditors of Deposit Holders. We hereby appoint **Mr. Vibin Vincent, Insolvency Professional, having Registration Number IBBI/IPA-001/IP-P01997/2020-2021/13134 residing at Chakiath House, Elavoor P.O., Ernakulam, and Mrs. Celine P. Thomas having Registration Number IBBI/IPA-001/IP-P02358/2021-2022/13612 residing at 4B, Tulip, Skyline Riverdale Apartments, Petta, Tripunithura, Ernakulam** as the Authorized Representatives for the Class of Creditors of Home Buyers in the CIR Process and class of creditors of Deposit Holders respectively in the CIR Process in the matter of **Samson and Sons Builders and Developers Pvt. Ltd.**

18. Accordingly, **IA(IBC)/110(KOB)/2022 stands allowed.**

Dated this the 01st day of July 2022.

Sd/-

(Anil Kumar. B)
Member (Technical)

ASHOK KUMAR
BORAH

(Ashok Kumar Borah)
Member (Judicial)

Digitally signed by ASHOK KUMAR
BORAH
Date: 2022.07.04 16:27:26 +05'30'

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