IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/35/KOB/2025
IN
IA(IBC)/222/KOB/2023
IN
CP(IB)/05/KOB/2021
(Under Rule 32 R/W Rule 11 of the NCLT Rules, 2016)

Date Of Institution: 23.01.2025
Order Delivered on:13.07.2026

In the matter of:
M/s Samson and Sons Builders and Developers Pvt. Ltd.

Memo of Parties:
MOHAN KUMAR
Chamma Vila Veedu, Arasummoodu,
Kulathoor P.O., Attipara Village,
Thiruvananthapuram-695583

…. **Applicant 1**

SREEKALA MOHAN
Chamma Vila Veedu, Aarasummoodu,
Kulathoor P.O., Attipara Village,
Thiruvananthapuram-695583

…. **Applicant 2**

-Vs-

K PARAMESWARAN NAIR
Resolution Professional
IBBI/IPA-001/IP-P01773/2019-20/12072
Resolution Professional of M/s Samson
and Sons Builders and Developers Pvt. Ltd.
37/1736E, Kripasagaram, K.Murali Road
Kadavanthra, Ernakulam,
Kerala-682020

…..**Respondent 1**

SAMUEL JACOB
S/o Jacob Samson,
Residing at TC 95/1580(3), Nandanam,
Padinjattil Lane, Medical College P.O.,
Thiruvananthapuram-695011

…..**Respondent 2**

JOHN JACOB
Residing at TC 95/1580(3), Nandanam,
Padinjattil Lane, Medical College P.O.,
Thiruvananthapuram-695011

…..**Respondent 3**

JACOB SAMSON
Residing at TC 95/1580(3), Nandanam,
Padinjattil Lane, Medical College P.O.,
Thiruvananthapuram-695011

…..**Respondent 4**

KANIMATTOM TRADERS
TC 3/678, Kannimattom,
TKD Road, Muttada,
Trivandum-695025
Email: director.samson@gmail.com

…..**Respondent 5**

SAMSON AND SONS DESIGNS
TC 3/679, Kaliveena Building,
TKD Road, Muttada,
Trivandrm-695025

…..**Respondent 6**

DHANYA MARY VARGHESE
Residing at TC 95/1580(3), Nandanam,
Padinjattil Lane, Medical College P.O.,
Thiruvananthapuram-695011

…..**Respondent 7**

Coram:

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

***Appearance*:**

For the Applicants	: Mr. Bijoy P Pulipra, Advocate.
For the Respondent 1	: Mr. Akhil Suresh, Advocate.
For the Respondent 2 & 5	: Mr. Rohan Kumar, Advocate.
For the Respondent 3 & 7	: Mr. Sankar P Panicker, Advocate.
For the Respondent 4	: Mr. Sherry Nainan Oommen, Advocate.
For the Respondent 6	: ex parte.

O R D E R

Per Coram

1. The present Application has been filed under Rules 32 read with Rule 11 of the NCLT Rules, 2016, seeking the following reliefs:

    5.1. Allow the instant application and take on record the documents attached hereto as Annexure B-10 to B-17 as part of the Counter-Statement filed by Respondent 4 and 5 in (IBC)/222/KOB/2023 in CP/IBC/05/KOB/2021.
    5.2. Pass such further orders as this Hon'ble Bench may deem fit and thus render justice.

2. So, the present IA has been filed to place on record certain documents in the application filed by the Resolution Professional under Section 66(1) of the IBC, 2016.

Brief facts of the case:

3. The applicants in this IA submitted that Respondent No. 1, Mr. K. Parameswaran Nair, filed IA (IBC)/222/KOB/2023 in CP/IBC/05/KOB/2021 under Section 66(1) of the Insolvency and Bankruptcy Code, 2016, alleging fraudulent transactions by the Corporate Debtor, M/s Samson and Sons Builders and Developers Private Limited. The Applicants are arrayed as Respondent Nos. 4 and 5 in the said IA relating to the Merryland Project. The Corporate Debtor was admitted into CIRP by order dated 03.11.2021 in CP (IB)/05/KOB/2021 under Section 9 of the Code. The Applicants denied the allegations and asserted that they are bona fide purchasers.

4. It is submitted that the Applicant No. 1 and Respondent No. 4 entered into an Agreement dated 16.10.2015 (Annexure B-10) for the purchase of an apartment in the "Samson and Sons Sanctuary–Vazhayila, Nightingale" Project and paid Rs. 80,00,000/-, with Rs. 5,00,000/- payable at handover of the apartment keys. After abandonment of the project and non-refund, the Corporate Debtor offered alternative land in Kowdiar Village for Rs. 90,51,000/-, which the Applicants accepted and paid Rs. 10,51,000/- after due diligence.
5. Further, this Adjudicating Authority, vide order dated 03.10.2023, directed Respondent No. 1 to examine the Applicants' role. However, false allegations were made that land tax was paid only from 2023, whereas records (Annexures B-11 to B-14) show payment from 2016, supported by mutation documents (Annexures B-15 and B-16). The Income Tax Department also withdrew the attachment of the property after verification, as per the letter dated 31.10.2023 (Annexure B-17). The Applicants, therefore, seek that the above documents be taken on record in IA (IBC)/222/KOB/2023.

Reply by Respondent No. 1:

6. The Respondent No. 1/RP denied the Applicants' claim that they entered into an Agreement for Sale with the Corporate Debtor on 16.10.2015 and paid Rs. 80,00,000/- towards the Sanctuary Project. The alleged agreement and payment were never disclosed before this Adjudicating Authority, the Enforcement Directorate ("ED"), or any other authority earlier, and appear to be an afterthought.
7. The Respondent further submitted that the alleged repayment arrangement through 17.2 cents of land in the "Merry Land" Project is unsupported by any documentary evidence. The said land was separately acquired under Sale Deed Nos. 4527/2012 dated 18.12.2012 and 4688/2012 dated 28.12.2012 using funds

from multiple homebuyers. The Respondent also denied the existence of any allottee named "Mohan Kumar" or "Sreekala Mohan" in the Corporate Debtor's records. No transaction of Rs. 80,00,000/- is reflected in the books of accounts, and no receipts or proof of payment have been produced.

8. Further, it is submitted that, in OC No. 3022/2024 pending before the ED, the Applicants did not disclose any such agreement or payment and gave a different version of events. The Applicants are therefore taking contradictory stands before different authorities, and in the absence of documentary evidence, their claims are unsupported and unreliable.

<u>Reply of Respondent No. 4:-</u>

9. Respondent No. 4 submitted that the application is liable to be dismissed in limine as it is based on fraud and forged documents, especially Annexure B10, which is admittedly unregistered. The Respondent reserves the right to initiate proceedings under Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for furnishing false evidence. The Applicants wrongly invoked Rules 11 and 32 of the NCLT Rules, 2016, to produce additional documents after filing their counter in IA(IBC)/222/KOB/2023. No reason is given for the delay. Their claim as bona fide purchasers is false, since no valid conveyance exists without registration under Section 17 of the Registration Act, 2008.

10. It is further submitted that the alleged payment of Rs. 80 Lakhs under Annexure B10 is unsupported by any proof. The Respondent stated that the Applicants were moneylenders and all amounts advanced to the Corporate Debtor were repaid. The claim over 17.2 cents of land is also false, as no registered conveyance exists. The Respondent submitted that the Applicants failed to discharge the burden of proof.

11. The Corporate Debtor had already filed OS No. 96 of 2019 and OS No. 104 of 2019 before the Hon'ble Sub Court, Thiruvananthapuram, and injunction orders in Annexures R4(D) and R4(E) are still in force. The Applicants obtained Annexures B11 to B17 by suppressing the pendency of the suits and injunction orders. The Applicants have also not taken any steps to vacate the injunction orders. The Respondent No.4 further submitted that the Resolution Professional failed to protect the Corporate Debtor's assets and revive the suits, leading to the filing of IA(IBC)/434/KOB/2024 before this Adjudicating Authority**.** For the aforesaid reasons, the present IA is not maintainable and deserves dismissal in limine with costs, having been filed with malicious intent.
12. The Respondents Nos. 2,5,3 and 7 of IA(IBC)/35/KOB/2025 also opposed the application at the time of hearing by endorsing the stand taken by Respondent No. 4.

<u>Findings:-</u>

13. We have heard both sides and have gone through the records, documents, pleadings, and submissions made on behalf of the parties. In fact, the present Application has been filed by Respondent Nos. 4 and 5 in IA(IBC)/222/KOB/2023 to place on record certain documents. The Respondents, including the Applicant in IA(IBC)/222/KOB/2023, initially vehemently opposed the relief as claimed in the present Application, but ultimately, counsel for the Resolution Professional, on 15/6/2026 during the hearing, made a statement at the Bar that he has no objection if the documents may be taken on record, subject to proof of execution, relevance, and admissibility in accordance with law. Whereas, counsel for Respondent Nos. 2 to 5 and 7 of IA(IBC)/35/KOB/2025 opposed the reliefs on various grounds. In view of subsequent submissions, practically, the Resolution

Professional has relinquished the defence taken in his reply. The order dated 15.06.2026 is reproduced as under:

> ***IA(IBC)/35/KOB/2025 IN IA(IBC)/222/KOB/2023 in CP(IB)/05/KOB/2021***
>
> *Learned Counsel, Mr. Bijoy Pulipra, appears virtually on behalf of the Applicants. Learned Counsel, Mr. Akhil Suresh, appears on behalf of R1/RP through virtual mode. Ld Representing Counsel Mr. Ajith Kumar S appears on behalf of Learned Counsel Mr. Sankar Panicker for R3 and R7 through virtual mode. Ld Counsel, Mr. Sherry Oommen, appears physically on behalf of R4. Learned Counsel, Mr. Rohan Kumar, appears on behalf of R2 & R5 through virtual mode. R6 has already been set ex-parte vide earlier order.*
>
> *Both parties argued at length.*
>
> *Ld. Counsel for R1 submitted that to ensure expeditious adjudication of the Section 66 application (IA(IBC)/222/KOB/2023), he has no objection if documents may be taken on record subject to proof of execution, relevance, and admissibility in accordance with law. Ld. Counsel for R4 submitted that he is opposing the relief claimed in this application. Ld. Counsel for R2 & R5 submitted that he is supporting the arguments of Ld. Counsel for R4. Ld. Representing Counsel for R3 & R7 also submitted that he is also supporting the defence taken by Ld. Counsel for R4.*
>
> *Heard both sides. Case is* ***reserved for orders.***

14. Having heard the rival submissions and upon perusal of the pleadings and records, this Adjudicating Authority considers it appropriate to first examine the nature and scope of the proceedings in IA(IBC)/222/KOB/2023, in which the present application has been filed. IA(IBC)/222/KOB/2023 has been filed by the Resolution Professional under Section 66 of the Insolvency and Bankruptcy Code, 2016, seeking various reliefs against the respondents. For proper appreciation of the controversy involved in the present application, the prayers sought in IA(IBC)/222/KOB/2023 are reproduced hereinbelow:

> i. *To declare that the respondents 1-3 have carried out the business of the corporate debtor with an intention to defraud its creditors*
>
> ii. *Direct the Respondents 1-3 to pay a sum of Rs 1,71,02,658/- to the bank account of the Corporate debtor being the profits created by way of asset creation books for the purpose of creating free reserves to issue Bonus shares issue in 2014-15;*
>
> iii. *Direct the Respondents 1-3 to pay a sum of Rs. 10,15,50,000/- to the bank account of the Corporate debtor being the amount collected from*

various Homebuyers of the Corporate Debtor for the 'Merry Land Project';

iv. *To declare that the Annexure A-12 sale deed entered into between the Corporate Debtor and the 4th Respondent is a fraudulent transaction and the same is liable to be declared as void and consequently reverse the effect of the said transaction.*

v. *To declare that the Annexure A-13 sale deed entered into between the Corporate Debtor and the 5th Respondent is a fraudulent transaction and the same is liable to be declared as void and consequently reverse the effect of the said transaction.*

vi. *To declare that the Property covered in Annexure A-12 and Annexure A-13 is an asset of the Corporate Debtor.*

vii. *Direct the respondents 1-3 to pay a sum of Rs. 5,70,06,725/- to the account of the Corporate Debtor to provide payment for the landowners of Selene project being the land value payable along with the Interest and Cost as per their claim and Arbitration Award.*

viii. *Direct the respondents 1-3 to pay the sum of Rs. 1,45,00,000/- to the Home Buyers of CD in project "Selene' Project being the amount collected from them.*

ix. *Direct the Respondents 1-3 to pay a sum of Rs.1,22,99,671/- to the bank account of the Corporate debtor being the amount collected illegally from various homebuyers on account of duplicate bookings in 'Nova Castle' Project;*

x. *Direct the Respondents 1,2,3 and 6th Respondents jointly and severally pay a sum of Rs. 1,89,19,813/- to the bank account of the Corporate debtor being excess amount paid by the Corporate Debtor from the loan sanctioned from KFC to the 6 Respondent related party;*

xi. *Direct the Respondents 1,2,3 and 8th Respondents jointly and severally pay a sum of Rs. 18,52,000/- to the bank account of the Corporate debtor being an amount paid by the Corporate Debtor from the loan sanctioned from KFC to the 8th Respondent Related party.*

xii. *Direct the 1 Respondent to pay a sum of Rs.3,75,000/- to the bank account of the Corporate debtor being an amount taken out as salary from the project loan sanctioned from KFC.*

xiii. *Direct the 2nd Respondent to pay a sum of Rs. 1,67,213/- to the bank account of the Corporate debtor being an amount taken out as salary from the project loan sanctioned from KFC.*

xiv. *Direct the 3rd Respondent to pay a sum of Rs.3,52,000/- to the bank account of the Corporate debtor being an amount taken out as salary from the project loan sanctioned from KFC.*

xv. *Direct the 9 Respondent to pay a sum of Rs.1,30,000/- to the bank account of the Corporate debtor being an amount taken out as salary from the project loan sanctioned from KFC.*

xvi. *Direct the Respondents 1-3 to pay a sum of Rs. 15,97,389/- to the bank account of the Corporate debtor being the amount paid for settling the pending works contract tax in violation of the sanction terms.*

xvii. *Direct the Respondents 1-3 to pay a sum of Rs 50,95,380/- to the bank account of the Corporate debtor being the amount deficit for Issue of bonus shares without adequate balance in Free Reserves*

xviii. *Direct the Respondents 1-3 to pay a sum of Rs. 12,45,15,650/- to the bank account of the Corporate debtor being the amount siphoned out by way of cash withdrawals and cheques to unknown parties during the FY 2015-16.*

xix. *Direct the Respondents 1-3 to pay a sum of Rs.1,04,98,000/- to the bank account of the Corporate debtor being the amount siphoned out by way of cash withdrawals and cheques to unknown parties during the FY 2016-17.*

xx. *Direct the Respondents 1-3 to pay a sum of Rs.326,00,000/- to the bank account of the Corporate debtor being the amount misutilised out of the loan obtained from Muthoot Fincorp Ltd.*

xxi. *Any other reliefs as this Hon'ble Tribunal deems fit and proper.*

15. A perusal of the above prayers clearly demonstrates that the scope of IA(IBC)/222/KOB/2023 is confined to the allegations of fraudulent trading and fraudulent transactions under Section 66 of the Insolvency and Bankruptcy Code, 2016, and the consequential reliefs sought by the Resolution Professional for the benefit of the Corporate Debtor and its stakeholders. The present application, i.e., IA(IBC)/35/KOB/2025, does not seek adjudication of any independent civil rights or inter se disputes amongst the respondents. It merely seeks permission to place certain documents on record as part of the counter statement filed by Respondent Nos. 4 and 5.

16. However, instead of confining their submissions to the limited controversy involved in the present application, the contesting respondents, particularly Respondent No.4, have attempted to transform these proceedings into a forum for adjudication of their inter se disputes. Elaborate objections have been raised touching upon disputed questions relating to title, alleged forgery, validity of transactions, pending civil proceedings, and other collateral issues, supported by numerous judgments and authorities. This Adjudicating Authority is unable to appreciate such an approach. The platform provided under Section 66 of the

Insolvency and Bankruptcy Code, 2016, cannot be converted into a battlefield for settling private disputes amongst the respondents or for creating fresh controversies with a view to prolonging and warding off the adjudication of the issues arising under the Code. The IBC is a special legislation founded upon a time-bound and summary mechanism, and proceedings thereunder cannot be permitted to lose their statutory focus by permitting parties to enlarge the scope of the enquiry beyond what is necessary for deciding the application before this Adjudicating Authority.

17. Once the Applicant in IA(IBC)/222/KOB/2023, namely the Resolution Professional, who is the *dominus litis* and master of his own case, has categorically stated before this Adjudicating Authority that he has no objection to the documents being taken on record, subject to proof of execution, relevance and admissibility in accordance with law, the co-respondents cannot be permitted to assume the role of the Applicant or dictate the manner in which the proceedings are to be conducted. There is nothing on record to indicate any collusion between the Resolution Professional and the Applicants in the present application, i.e., IA(IBC)/35/KOB/2025 so as to justify the objections being canvassed by the contesting respondents at this preliminary stage. Their right is confined to disputing the evidentiary value, genuineness, admissibility, and legal effect of such documents at the stage of adjudication of the main application. They cannot seek to prevent the very production of documents merely because they apprehend that such documents may support the defense of another respondent.

18. Upon production of the documents, while observing the principles of natural justice, this Adjudicating Authority shall afford adequate opportunity to all concerned stakeholders to file their objections, counter-documents and submissions with regard to the execution, genuineness, admissibility, relevance

and legal effect of such documents. The production of documents on record, by itself, neither confers any evidentiary value upon them nor amounts to their acceptance by this Adjudicating Authority. Further, the production of documents by itself would not affect the rights of any litigants in any manner.

19. However, the proceedings cannot be permitted to be perpetuated to derail the adjudication under Section 66 of the Insolvency and Bankruptcy Code, 2016, merely on account of alleged controversies inter se between the shareholders or amongst the respondents. The jurisdiction of this Adjudicating Authority under the Code is confined to examining the issues arising under the provisions of the IBC and not to adjudicate every collateral or independent dispute which the parties may seek to introduce. If such an approach is permitted, the very objective of a time-bound insolvency resolution process would stand frustrated.

20. This Adjudicating Authority is of the considered view that the objections raised by Respondent No.4 of IA(IBC)/35/KOB/2025 predominantly relate to disputed questions concerning title, alleged forgery, civil rights and other inter se disputes between private parties. Such contentions may be available to the concerned parties before the appropriate forum and may also be urged at the stage of appreciation of evidence in the present proceedings, wherever legally permissible. However, they cannot constitute a valid ground to oppose the mere taking of documents on record.

21. The case laws cited and the elaborate arguments advanced by Respondent No.4, at this stage, are liable to be ignored, as they are essentially directed towards enlarging the scope of the IBC, 2016 into a regular civil trial, which is wholly contrary to the summary and time-bound mechanism envisaged under the Code. The Insolvency and Bankruptcy Code cannot be converted into a forum for adjudication of every private civil dispute between contesting parties, nor can

proceedings under Section 66 be permitted to lose their statutory focus on account of such collateral controversies. Only those issues which are necessary for the effective adjudication of the application under Section 66 deserve consideration by this Adjudicating Authority.

22. In view of the findings recorded hereinabove, the prayer sought in the present Application deserves to be allowed. Annexures B-10 to B-17 are permitted to be taken on record as part of the Counter Statement filed by Respondent Nos. 4 and 5 in IA(IBC)/222/KOB/2023. It is made clear that this Adjudicating Authority has not expressed any opinion on the merits or evidentiary value of the said documents, and all rights and contentions of the parties with respect thereto are left open for consideration. No observations made above will have any bearing on the merits of the case.
23. Accordingly, **IA(IBC)/35/KOB/2025** IN IA(IBC)/222/KOB/2023 IN CP(IB)/05/KOB/2021 stands **allowed and disposed of**.
24. The Applicant is directed to supply copies of the documents to the Applicant as well as the co-respondents in IA(IBC)/222/KOB/2023 within 7 days of this order so that they may file their counter, objections, or counter documents to these documents within seven (7) days thereafter.
25. 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.
26. The Registry is directed to keep the records of this application along with IA(IBC)/222/KOB/2023, which is already fixed for 17.07.2026. Further, if not already supplied, the applicant is directed to furnish copies of the documents to the applicant as well as the co-respondents in IA(IBC)/222/KOB/2023, so that they may file their counters, objections, or counter documents, if any, in response to the documents permitted to be taken on record in IA(IBC)/222/KOB/2023.

27. Let the certified copy of this order be issued, if applied for, upon compliance with the requisite formalities.
28. File be consigned to records.

Sd /-	**Sd /-**
RAVICHANDRAN RAMASAMY (MEMBER TECHNICAL)	**VINAY GOEL (MEMBER JUDICIAL)**

Signed on this the 13th day of July, 2026.

*A**
D/Steno