

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 28TH DAY OF APRIL, 2020/8TH VAISAKHA, 1942

W.P(C) TMP NO.191 OF 2020

PETITIONER:

M/S ALBANNA ENGINEERING LLC
POST BOX - 7323, DUBAI, UNITED ARAB EMIRATES;
HAVING ITS PROJECT OFFICE AT XIV/98M
MNB BUSINESS HUBFL ROOM NO.3, AMBATTU
AMBALAMUGAL P.O., PIN - 682 302;
REP. BY ITS POWER OF ATTORNEY HOLDER SREEKUMAR S.
S/O LATE P. SANKARAN NAIR, AGED 56 YEARS
H.B.47, PANAMPILLY NAGAR, KOCHI - 682 036

BY ADV. SRI. REJI GEORGE

RESPONDENTS:

1. NATIONAL COMPANY LAW TRIBUNAL, KOCHI BENCH
KUNNUMPURAM, VAZHAKKALA, KOCHI, PIN - 682 021
2. M/S. SANGHVI MOVERS LIMITED
REGD OFFICE: SURVEY NO. 92
TATHWADE, TALUKA - MULSI, PUNE
MAHRASHTRA STATE, PIN - 411 033
3. M/S. ALBANNA ENGINEERING (INDIA) PRIVATE LIMITED
REPRESENTED BY ITS EX-DIRECTOR MR. MATTHEW KAVALAM
XIV 305 A4(4) 3E, NOEL FOCUS, SEAPORT-AIRPORT ROAD
CHITTETHUKARA, CSEZ P.O., KAKKANAD, PIN - 682 037
4. M/S. PUNJAB NATIONAL BANK
REPRESENTED BY ITS CHIEF MANAGER
HAVING OFFICE AT ARMB CIRCLE OFFICE
ERANAKULAM, PIN - 682 011
5. COMMITTEE OF CREDITORS OF ALBANNA ENGINEERING (INDIA)
PRIVATE LIMITED

REPRESENTED BY MR. VINOD BALACHANDRAN (RP)
HAVING HIS OFFICE ADDRESS AT 70/1909, ASHOKA ROAD
KALOOR, KOCHI, PIN - 682 017

6. M/S BHARAT PETROLEUM CORPORATION LIMITED
REPRESENTED BY ITS EXECUTIVE DIRECTOR
HAVING OFFICE AT KOCHI REFINERY, AMBALAMUGAL
ERANAKULAM DISTRICT, KERALA, PIN - 682 302

BY SRI.T.S.SYAMPRASANTH

THIS WRIT PETITION HAVING COME UP FOR ORDERS ON
28.04.2020, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

BECHU KURIAN THOMAS, J.

W.P.(C) TMP No.191 of 2020

Dated this the 28th day of April, 2020

ORDER

Counsel for the parties appearing in this case will enquire and submit to the Court as to whether the NCLAT, Chennai or Delhi is sitting, and if not, as to when they would commence their sitting. For this purpose, this case is posted to 5.5.2020. The learned counsel for the petitioner expresses his apprehension that even before next posting, the Bank guarantee may be invoked as directed by the Tribunal in Ext.P2, which may leave the petitioner's appellate remedy redundant.

2. Learned counsel for the sixth respondent submits that pursuant to the orders of the NCLT, Cochin Bench, they have already issued letters invoking the Bank guarantee. However, the amounts have not yet been credited into their accounts.

3. In the above circumstances, I find that the apprehension of the learned counsel for the petitioner that their remedy in appeal may

become redundant and unless a short stay of Ext.P2 order is granted, petitioner will be put to irreparable loss and hardships.

4. Accordingly, the operation of Ext.P2 order directing invocation of Bank guarantee submitted by the petitioners will remain stayed till 6.5.2020.

5. It is also submitted on behalf of the learned counsel for the petitioner that due to the present situation, it will be difficult to convey the existence of the stay order to the Bank especially since the sixth respondent has already written a letter invoking the Bank guarantee.

6. In such circumstances, I direct the learned counsel for the petitioner as well as the counsel for the sixth respondent to communicate the existence of the stay order by E-Mail to the respective Banks that have issued the Bank guarantee. Needless to say, the petitioner shall not be entitled to encash the Bank guarantee.

Post the case on 5.5.2020.

BECHU KURIAN THOMAS
JUDGE

APPENDIX

PETITIONERS EXTS:

**EXT. P1 : A TRUE COPY OF MA/25/KOB/2020 IN IBA/38/KOB/2019
FILED BY THE 2ND RESPONDENT DATED 09.03.2020 BEFORE THE
NCLT, KOCHI BENCH.**

**EXT. P2 : A TRUE COPY ORDER DATED 20.04.2020 PASSED BY THE
NCLT, KOCHI BENCH IN MA/25/KOB/2020 IN
IBA/38/KOB/2019.**