

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

IA (C/Act)/216/KOB/2025

In

CP(C/Act)/23/KOB/2023

(Under Rule 11 of the NCLT Rules 2016)

Date of Institution: 04.12.2025

Order delivered on: 14.08.2026

***In the matter of: M/s.Thomsons Speciality
Packagings and Exports (India) Ltd***

Memo of parties:

N.T. Andrews

residing at 24/1964A,
A.K. Xavier Road, Santhom Junction,
Kochi 682005,

..... Applicant No. 1

N.T. Robin,

residing at 1339,
Nediyaparambil, Emakulam,
Kochi 682 017.

..... Applicant No. 2

Philomina Felix

Nediyaparambil House, Kureethara Road,
Mundamveli P.O.,
Kochi 682 507

..... Applicant No. 3

-Vs-

**M/s. Thomsons Speciality Packagings
and Exports (India) Ltd.,**

At 12/47. Nediyaparambil House,
Thuravoor P.O., Alleppey, Kerala,
pin- 688 532

.... Respondent 1

N.T. Francis

Nediyaparambil House,
Thuravoor P.O.
Alleppey 688 532

.... Respondent 2

M.V. Antony,

Door No. CC No.12/532A.
Pandikkudi, Thoppumpady Village.,
Kochi Taluk, Pin 682 002.

.... Respondent 3

Coram:

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

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

Appearances:

For the Applicants	: Ms. Anchala C, Advocate.
Respondent No.1	: <i>Ex-parte</i>
For the Respondent No. 2	: Mr. Babu Cherukara, Advocate.
For the Respondent No. 3	: Mr. Ashok B Shenoy, Advocate.

ORDER

Per Coram

1. The present application has been filed by the petitioner of CP/23/KOB/2023 against the respondents under Rule 11 of the NCLT Rules, 2016, seeking the following reliefs: -

1. *Pass an order restraining the 2nd and 3rd Respondent (and their agents, representatives or persons acting on his behalf) from entering upon or dealing with the property, assets, premises of the 1st Respondent Company or from removing, transferring, alienating any assets, materials, iron pipes or other materials from the said premises until further orders and direct them to strictly maintain the status quo as ordered by this Hon'ble Tribunal on 23.11.2023*

2. *Direct the 3rd respondent to restore / return to the 1 Respondent Company the materials removed from the premises forthwith and submit an inventory of such materials.*
3. *Award costs of this application to these Applicants (and/or the 1 Respondent Company) to be paid by the 3rd Respondent.*
4. *Issue such other and further orders as this Hon'ble Tribunal may deem fit and proper in the interests of justice and to safeguard the assets and affairs of the 1" Respondent Company and its members.*

Brief facts of the case: -

2. It is submitted that the Applicants have filed a petition under Sections 241 and 242 of the Companies Act, 2013, alleging oppression and mismanagement in the affairs of Respondent No. 1 Company committed by Respondent No. 2. Respondent No. 1 is a public limited company incorporated under the Companies Act, 1956. It is alleged that Respondent No. 2 was appointed as the Managing Director of Respondent No. 1 with effect from 18.06.2013 for a term of five years, which expired on 17.06.2018.
3. The Applicants have further alleged that Respondent No. 2 indulged in various acts of mismanagement, manipulation, fabrication of records, falsification of accounts, and preparation of false and misleading statutory records. It is also alleged that Respondent No. 2 siphoned off the funds of the company into his personal account, to the detriment of the company's financial health and reputation.
4. It is further submitted that, upon hearing the Applicants/Petitioners, this Tribunal passed an interim order dated 23.11.2023 directing the respondents to maintain status quo. The Applicants have annexed the said order as Annexure A-1, which reads as under:

CP(C/ACT)/23/KOB/2023

This is a Company Petition bearing No. 23/KOB/2023 filed under Section 241 and 242 of the Companies Act, 2013 read with Rule 81 of the NCLT Rules, 2016.

In the said petition, the petitioner has arrayed 3 respondents as parties. Learned counsel, Mr. Binoy Davis appears on behalf of the petitioner through virtual mode and invited our attention to Page 81 whereby it is seen that R2 was the Managing Director who seized to hold the position on 17.06.2018. However,

he has executed the Deed of Conveyance on 19th September 2019 when he was not holding the post of Managing Director. Hence, he has expressed his apprehension to precipitate the assets of the Company if interim relief is not granted.

Taking note of the submissions of the counsel and on perusal of the averments made in the present petition, ad interim relief becomes incumbent in favour of the petitioner. Accordingly, this bench directs all respondents to maintain the status quo as on today and not to alienate or create any charge over the property of the 1st respondent company including 6.59 Ares of property in Sy no. 1141 of Thoppumpady (old Mattancherry) village, Kochi Thaluk, covered by sale deed no. 2911/2019 of S.R.O. Kochi until further orders.

Registry is directed to issue notice to the respondents returnable on 20/12//2023. In addition to above, the petitioner is also directed to issue notice to the respondents by all available means i.e., e-mail, Registered Post and file affidavit of service enclosing therewith a proof of service of notice served on the respondents.

List this CP(C/ACT)/23/KOB/2023 for further consideration on 20.12.2023.

5. It is the case of the applicants that the above interim order dated 23.11.2023 is in force directing the parties to maintain status quo with regard to the physical possession, enjoyment, and character of the assets of Respondent No. 1 company. The said order also restrains any act of alienation, interference with, or removal of the assets of the company. According to the applicants, despite the aforesaid interim order, the agents and associates of Respondent No. 3 trespassed upon the premises of Respondent No. 1 and unlawfully removed iron pipes and other materials belonging to the company.
6. It is further submitted that Applicant No. 1, being physically incapacitated due to an accident, was unable to intervene personally. However, his daughter attempted to restrain the said persons, whereupon she was allegedly subjected to verbal abuse and threats, compelling her to withdraw from the premises out of fear for her safety.
7. It is submitted that the incident was reported to the police on 14.10.2025, and a copy of the complaint has been annexed to the application as Annexure A-2. On the basis of these allegations, the applicants contend that the acts attributed to Respondent No. 3 constitute a wilful and deliberate violation of the interim order

dated 23.11.2023, and they have accordingly sought appropriate interim protection.

8. Respondents No. 2 and 3 have filed their separate replies denying all the allegations made in the application. Respondent No. 2 submitted that there has been no violation of the order passed by this Tribunal. It is further contended that the property is owned and possessed by Respondent No. 3 by virtue of a duly executed and registered sale deed, and that the allegations levelled against Respondent No. 2 are false, baseless, and liable to be rejected. Respondent No. 3, in his reply, has submitted that he is a bona fide third-party purchaser of one of the immovable properties of Respondent No. 1 by virtue of a duly executed and registered sale deed, and that he is the lawful owner in possession of the said property.
9. It is submitted that the present IA is not maintainable, inasmuch as it seeks the same or substantially similar reliefs as those sought and granted by this Tribunal vide order dated 23.11.2023. Even on merits, the application is devoid of substance and is liable to be dismissed. Respondent No. 3 submitted that he is a bona fide purchaser of the property in question and that the allegations made in the present IA are false, baseless, and devoid of any factual foundation. The respondents have specifically denied the incident narrated in the application, as well as the allegation that the agents or associates of Respondent No. 3 committed the acts alleged in paragraph 4 of the IA. It is further contended that the complaint allegedly lodged before the Sub-Inspector of Police, Thoppumpady, is false and does not substantiate the allegations made in the application and the application merits dismissal.

Findings: -

10. We have heard both sides and have also perused the records and the written submissions. Although the applicants have filed detailed and exhaustive written

submissions, we consider it fair and appropriate to confine ourselves to the scope of the relief sought in the present IA.

11. Having heard the parties and considered the rival submissions, we are of the considered view that the order dated 23.11.2023 was passed at the instance of the petitioners at the back of the respondents, based on the prima facie merits of the submissions made at the relevant time. The said order has been reproduced hereinabove in paragraph 2 of this order. A plain reading thereof reveals that it merely restrains any further alienation of, or creation of any charge over, the immovable property forming the subject matter of the deed of conveyance dated 19.09.2019. There exists no injunction restraining any person from entering upon or using the said property. The injunction was granted solely to preserve the status of the property. Neither was any relief sought, at the time of oral hearing, restraining the use of or entry into the property by any person, nor any such injunction was granted.
12. Even if such reliefs had been sought in the main company petition by way of interim protection, the record reveals that, at the time of the oral hearing, the applicant pressed only a part of the reliefs sought. It must, therefore, be construed that, at the relevant point of time, the applicant chose not to press the remaining reliefs. Furthermore, had all such reliefs been pressed at the time of hearing and the Tribunal granted only some of them, the omission to grant the remaining reliefs would necessarily imply that those reliefs stood declined. In other words, no interim relief was ever granted with respect to the use, occupation, or enjoyment of the property, or in relation to dealing with the materials allegedly lying thereon. Even otherwise, the police complaint allegedly made by the petitioner No. 1 is a vague complaint wherein there is no reference to the time and date of the alleged incident. And there is no evidence on record

that any such material was ever lying on said property and was ever removed by Respondent No. 3 or his alleged agents.

13. So, on vague pleadings, no relief can be granted even otherwise. So, in the backdrop of the above, we find no merit to grant any reliefs allegedly claimed in this IA. This present application is nothing but a misuse of the process of law, and the applicant has wrongly interpreted the order dated 23.11.2023 and has delayed the adjudication of the main CP. So this application merits dismissal with cost.
14. Accordingly, **IA(C/ACT)/216/KOB/2025 in CP/23/KOB/2023 is dismissed with cost of Rs 25,000/-** (Twenty-five thousand only) to be deposited by the Applicants with the **National Defence Fund** within five days of the date of this order. The Applicants shall file a compliance memo to this effect in the main Company Petition.
15. 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.
16. Let the certified copy of this order be issued, if applied for, upon compliance with the requisite formalities.
17. File be consigned to records.

Sd/-

RAVICHANDRAN RAMASAMY
(MEMBER TECHNICAL)

Sd/-

VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 14th day of August, 2026.

Steno/Dhanya