IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

IA(IBC)/317/KOB/2026
IN
IA(IBC)/287/KOB/2026
IN
IA(IBC)/115/KOB/2026
IN
IA(IBC)/426/KOB/2022
IN
TIBA/34/KOB/2019

(Under Rule 11 of the NCLT Rules,2016, read with Order 1 Rule 10 of the Civil Procedure Code, 1908)

Date of Institution: 16.07.2026
Order delivered on: 07.09.2026.

In the matter of:

M/s. AXIOMATA ELEVATORS PVT LTD

MEMO OF PARTIES:

Renahan Vamakesan
Liquidator of Axiomata Elevators Pvt Ltd
IBBI/IPA-002/IP-N00630/2018-2019/11897
Villa 23, Skyline Rosemount Homes,
Kunjan Bava Road, Ponnurunni,
Vytila P.O, Ernakulam-682019

... Applicant

-Vs-

Anish Lawrence
35/1761 A, Vengenath House,
Anish Nivas, Janatha Road South,
Palarivattom P.O. Palarivattom,
Ernakulam-682025
Email: purchase.axiomata@gmail.com

...Respondent No.1.

Shebin Sasthamparambil
Sasthamparambil House, Chennur,
Kothad P.O, Ernakulam, PIN-682027
Email: purchase.axiomata@gmail.com

...Respondent No.2.

Proposed Respondents 3 to 5

Mahila
Shasthamparambil, Chennur,
Kadamakudy Village, Kanayannoor Taluk,
Kothad P.O, Ernakulam, Pin 682027

...Respondent No.3.

Shejil Shanmughan S
Shasthamparambil, Chennur,
Kadamakudy Village, Kanayannoor Taluk,
Kothad P.O, Ernakulam, Pin 682027

...Respondent No.4.

Sheni Shanmughan S
Shasthamparambil, Chennur,
Kadamakudy Village,
Kanayannoor Taluk, Kothad P.O,
Ernakulam, Pin 682027

...Respondent No.5.

Coram:

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

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

Appearances:

For the Applicant : Mr. Kevin Thomas, Advocate.

For the Respondent : Ms. Ramola Nayanpally, Advocate.

O R D E R

Per Coram

1. This application has been filed by the Liquidator of M/s. Axiomata Elevators Pvt Ltd with the following prayers: -

   i. *Pass an order to implead Respondents 3 to 5 herein as Respondents 3 to 5 in IA(IBC)/287/KOB/2026 pending before this Hon'ble Tribunal;*
   ii. *Pass such other orders as this Hon'ble Tribunal may deem fit and thus render justice.*

2. It is submitted that an order dated 23.06.2023 in IA(IBC)/426/KOB/2022 in TIBA/34/KOB/2019, this Adjudicating Authority directed the Respondents to pay a sum of Rs. 1,20,81,752/- within one month, failing which interest at 12% would have to be paid from the date of the order. The order was passed under Section 66 of the Insolvency and Bankruptcy Code, 2016.
3. It is submitted that the Respondents have failed to comply with the order, and the Applicant even issued a notice to the Respondents, calling upon them to pay the amount in terms of the order dated 23.06.2023.
4. The Applicant has filed IA(IBC)/115/KOB/2026 to execute the order dated 23.06.2023 in IA(IBC)/426/KOB/2022 in TIBA/34/KOB/2019 of this Adjudicating Authority.
5. It is submitted that the 2nd Respondent was the owner of 1/4th undivided share in 12.30 Ares in Re-Survey No.181/3, 75 Square Metres in Re-Survey No.181/9, 7.28 Ares in Re-Survey No.387/7-2 and 3.64 Ares in Re-Survey No.387/7 in Block 1 of Kadamakkudy Village, Kanayannur Taluk, Ernakulam District, along with building and all improvements, which devolved on him after the death of his father.

6. According to the applicant, the Respondent No. 2 has transferred the asset in favour of his family members as per Partition Deed No. 1543/2025 of Njarackal Sub Registrar Office. Therefore, the respondents, who had the means to pay the sum, have deliberately decided to avoid compliance with the order of this Adjudicating Authority.
7. Hence, an attachment of the share in the property is vital. The scheduled property may be attached and sold to realise the dues payable by the Respondents. Hence, the Applicant filed IA(IBC)/287/KOB/2026 to attach the said share in the immovable property which originally belonged to the 2nd Respondent.
8. However, Respondent No. 2 has raised an objection that Respondents 3 to 5 are necessary party in IA(IBC)/287/KOB/2026, if any attachment order is to be passed. Therefore, in the interest of justice, this application is filed to implead Respondents 3 to 5 in IA(IBC)/287/KOB/2026, so that there is no violation of principles of natural justice and since they are a necessary and proper party even according to Respondent No. 2.
9. It is further submitted that the Respondents, including the proposed respondents, have deliberately executed the partition deed in 2025 to avoid the execution of the order. The alleged right of Respondents 3 to 5 as per Partition Deed No. 1543/2025 of Njarackal Sub Registrar Office is suspicious and since their alleged right may be affected during the adjudication of IA(IBC)/287/KOB/2026, Respondents 3 to 5 are necessary parties in the said application. Therefore, it is submitted that the said additional respondents may also be impleaded in the party array in the interest of justice.

Reply affidavit filed by Respondent No.2

10. Respondent No.2 in his reply submitted that the Applicant is not entitled to any of the reliefs sought for. It is also submitted that this application is not maintainable either in law or on facts; and is an abuse of the process of this Adjudicating Authority.
11. The respondent No. 2further submitted that this Adjudicating Authority has no jurisdiction to entertain the impleading application for the purpose stated therein or to adjudicate the issues sought to be raised by the Applicant. The statement in Clause II of the application regarding jurisdiction is therefore denied.
12. It is the case of the respondent No. 2 that the Applicant seeks to implead the proposed Respondents solely on the allegation that they have acquired rights under Partition Deed No.1543/2025 executed among the family members, including the 2nd Respondent. The proposed Respondents are complete strangers to the insolvency proceedings. No relief was claimed against them in the original proceedings, nor were they issued notice or afforded an opportunity of hearing before the findings in IA(IBC) No.426/2022 were rendered.
13. It is further submitted that the respondent No. 2 did not acquire 1/4th share under a partition deed No. 1543/2025. The Applicant proceeds on the erroneous premise that the 2nd Respondent acquired 1/4th share in the properties and thereafter "transferred" the same in favour of his family members. The document relied upon is a registered family partition deed executed among co-sharers having antecedent rights in the inherited estate. It is well settled that a partition or bona fide family arrangement does not constitute a 'transfer of property within the meaning of Section 5 of the Transfer of Property Act, 1882. A partition merely identifies, allocates and

crystallizes pre-existing rights and does not create title by way of transfer. Therefore, the allegation that the 2nd Respondent transferred his property to defeat execution is legally misconceived.

14. The respondent No. 2 further stated that the real purpose of the present impleading application is not to facilitate execution but to enable the Applicant to challenge the validity and legal effect of a registered Partition Deed before this Adjudicating Authority. This is evident from the Applicant's own pleadings describing the partition deed as "suspicious" and alleging that it was executed to defeat execution. The proposed Respondents 3 to 5 claim independent title under the registered Partition Deed No.1543/2025 and not through or under the Judgment Debtors after commencement of these proceedings. The Applicant has not obtained any declaration from any competent Civil Court that the registered partition deed No.1543/2025 is void, sham, fraudulent or otherwise inoperative. Unless such a declaration is obtained from a competent forum, the Applicant cannot invite this Adjudicating Authority to disregard the legal effect of the registered document.

15. The Respondent No. 2 further submitted that he only contended that no order affecting the rights of the beneficiaries under the partition deed should be passed without hearing them. That objection cannot be construed as conferring jurisdiction upon this Adjudicating Authority to adjudicate the validity of the partition deed. On the contrary, the Applicant's own pleadings make it abundantly clear that the purpose of impleadment is to invite this Adjudicating Authority to determine the legality and binding effect of a registered partition deed, which lies outside the scope of its execution jurisdiction.

16. According to Respondent No. 2, the allegation of the applicant that the partition deed was executed to defeat execution is absolutely false and vehemently denied. The issue whether the 2nd Respondent has any subsisting right, title or interest in the scheduled properties is already directly and substantially in issue in O.S. No.679/2026 pending before the Ld. Additional Munsiff's Court, Ernakulam, instituted by the beneficiaries under Partition Deed No.1543/2025, who are now sought to be impleaded. The competent Civil Court is already seized of the questions relating to title, ownership and the legal effect of the partition deed. If the Applicant disputes the validity of the partition deed, it is always open to him to seek impleadment in the said civil suit and pursue his remedies before the competent forum.

17. It is the case of the Respondent No. 2 that the Applicant cannot invoke Rule 11 of the NCLT Rules read with Order I Rule 10 of the Code of Civil Procedure to enlarge the jurisdiction of this Adjudicating Authority. Order I Rule 10 primarily governs impleadment in original proceedings and cannot be invoked to convert execution proceedings into a civil trial concerning title to immovable property. Jurisdiction is conferred only by statute and cannot be created by impleading persons claiming independent title. The respondent No.2 has placed reliance on the decision of the *Hon'ble NCLT, Mumbai Bench in Birendra Kumar Agarwal v. Middle East Management Services LLP & Ors., CP(IB) No.93/2022, decided on 09.07.2026*, wherein, in a similar factual situation, it was held that: -

> *"27. It is well settled that although this Tribunal has residuary jurisdiction under Section 60(5) of the Insolvency and Bankruptcy Code, such jurisdiction is primarily intended to address issues arising out of or in relation to the insolvency resolution or liquidation process of the Corporate Debtor. The said jurisdiction cannot ordinarily be invoked to*

adjudicate complex and disputed questions of title and possession of immovable property between third parties, particularly where such disputes require a full-fledged trial and appreciation of evidence. The determination of these issues would require adjudication of civil rights which is beyond the scope of the summary jurisdiction exercised by this Tribunal under the Code.

While it is true that the Liquidator is duty-bound under Section 35 of the Code to take custody and control of the assets of the Corporate Debtor, such power cannot be exercised in cases where the ownership of the asset itself is seriously disputed by a third party claiming independent title. In such circumstances, the appropriate course of action would be for the Liquidator to approach the competent civil forum for determination of the dispute."

18. Respondent No.2 finally prayed that if this Adjudicating Authority is inclined to allow the application, the question of jurisdiction and maintainability be decided as a preliminary issue, namely, whether this Adjudicating Authority, while exercising execution jurisdiction under Section 424(3) of the Companies Act, 2013, can adjudicate upon the validity and legal effect of registered Partition Deed No.1543/2025 and the independent rights claimed thereunder by the proposed Respondents, when the very same issues are pending before the competent Civil Court as O.S. No. 679/2026.

Findings: -

19. We have heard the Learned Counsel appearing for the parties and also gone through materials available on record. The limited question that arises for consideration in the present application is whether Respondents 3 to 5 are necessary or proper parties in IA(IBC)/287/KOB/2026. At the outset, it is relevant to note the reliefs sought in IA(IBC)/287/KOB/2026, which are extracted below:

i. *Pass an order to attach Annexure 1 schedule property and communicate the same to the Sub Registrar Office, Njarakkal;*
ii. *Pass an order to bring Annexure 1 schedule property to sale to realise the dues of the Respondents under order dated 23.06.2023 in IA(IBC)/426/KOB/2022 in TIBA/34/KOB/2019 of this Hon'ble Tribunal; and*
iii. *Pass such other orders as this Hon'ble Tribunal may deem fit and thus render justice.*

20. It is therefore evident that the substantive relief sought in IA(IBC)/287/KOB/2026 directly concerns the attachment and consequential sale of the scheduled immovable property.
21. The Applicant claims that the property originally belonged to the 2nd Respondent and that it was subsequently dealt with under Partition Deed No.1543/2025 to defeat or obstruct the enforcement of the order of this Adjudicating Authority. Whereas, according to Respondent No.2, the proposed Respondents 3 to 5 claim an interest in the property under the said Partition Deed. The validity of their claim and the purpose of the transaction need not be decided at this stage.
22. However, the fact remains that the relief sought in IA(IBC)/287/KOB/2026 is directly connected with the property that is having rights and interests of Respondents 3 to 5 in the scheduled property. Once a third-party interest has been specifically asserted in respect of the property sought to be attached and sold, any order affecting such interest ought ordinarily to be passed only after affording the concerned persons an opportunity of being heard. This is not merely a matter of procedural formality, but is founded upon the principles of natural justice.
23. In the present case, Respondent No.2 himself has brought the alleged interest of Respondents 3 to 5 under the Partition Deed to the notice of this

Adjudicating Authority and has contended that their presence is necessary before any effective order concerning the property is passed. The Applicant has, thereafter, sought their impleadment precisely to ensure that the persons claiming an interest in the property are before this Adjudicating Authority. In such circumstances, their impleadment would facilitate an effective and complete adjudication of the issues arising in IA(IBC)/287/KOB/2026.

24. The contention of the Respondent No.2 that their impleadment would necessarily confer jurisdiction upon this Adjudicating Authority to adjudicate upon the validity of the Partition Deed is, at this stage, premature. The present application is confined to the question of impleadment.

25. It is also pertinent to note that impleadment of Respondents 3 to 5 does not, by itself, amount to a declaration that the Partition Deed No.1543/2025 is invalid, fraudulent, sham or intended to defeat the rights of the Applicant. Likewise, their impleadment does not amount to acceptance of the title or rights claimed by them under the said document. Their presence is considered necessary only because they claim an interest in the very property against which the Applicant seeks attachment and sale.

26. As far as the objection of the Respondent No. 2 about the jurisdiction of this Adjudicating Authority as an executing court is concerned, recently, ***the Hon'ble High Court of Kerala in the matter of ABDUL BASITH KURIKKALAKATH V/s. SHAFI MOHAMMED @ SHAFI MOHAMED KHALID OP(C) NO. 3172 OF 2025, dated 17th August 2026, has been pleased to held as under: -***

> *"5.* ***In Jose v. V. P. Devassy [2025 KHC 513], this Court had held that the executing Court can always exercise its power under Section 53 of the Transfer of Property Act, 1882, and***

> ***declare a transaction as to be void.*** *In the present case, the facts disclose that the foreign decree was passed on 08.04.2021 and that the gift was executed on 08.12.2022. The question to be determined by the executing court is as to whether this gift on 08.12.2022, just 42 days prior to the filing of the execution petition, was intended to defeat the rights of the creditor.* ***Therefore, the petitioner can always request the Executing Court to undertake the enquiry as contemplated under Section 52 of the Transfer of Property Act, 1882. Therefore, giving liberty to the petitioner to raise this plea before the executing court, this Court sustains Ext. P7 order and dismisses the original petition."***

27. In view of the foregoing discussion and in the backdrop of the above circumstances, without expressing any opinion on the merits of the allegations raised by the Applicant or the defence taken by the Respondent No. 2, we are of the considered view that it would be just and proper to allow the present impleadment application. The presence of Respondents 3 to 5 is necessary to afford them an opportunity of being heard, as their claimed interest in the scheduled property may be affected by any order passed in IA(IBC)/287/KOB/2026.
28. It is made clear that no observations made in this Order would have any bearing on the merits of the other cases.
29. Accordingly, the present application **IA(IBC)/317/KOB/2026** is **allowed** and **disposed of.** Respondents 3 to 5 shall be impleaded as Respondents 3 to 5 in IA(IBC)/287/KOB/2026. The amended cause title shall be filed by the Applicant accordingly.
30. The Registry is directed to send e-mail copies of this order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.

31. Counsel for the applicant is directed to take steps to issue notice to the impleaded respondents 3 to 5.
32. An urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.
33. File be consigned to records.

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

Signed on this the 7th day of September, 2026.

Reshma/Steno