INSTITUTE OF INSOLVENCY PROFESSIONALS
(Subsidiary of ICSI and Insolvency Professional Agency of IBBI)

LEARNING CURVE

Case No. 16/ 2026 • 25th August, 2026

"Challenge to NCLT Orders Must Ordinarily Be Pursued Through NCLAT Appeal and Not Through Writ Proceedings- Supreme Court."

CASE TITLE	**Davis Koottala Varkey & Ors. Versus Samson T. George & Ors.**
CASE NO.	Civil Appeal No. ____/2026 (Arising out of Special Leave Petition No. 18523/2026)
DATE OF ORDER	05th August 2026
COURT / TRIBUNAL	Supreme Court of India
STATUTES / RULES INVOLVED	• Section 61 of Insolvency and Bankruptcy Code, 2016 • Articles 226 and 227 of the Constitution of India • Section 14 of Limitation Act, 1963
BENCH	Justice Manoj Misra and Justice Vijay Bishnoi

BRIEF FACTS OF THE CASE

The dispute arose during liquidation proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC). An order passed by the National Company Law Tribunal (NCLT) was challenged before the Kerala High Court by way of a writ petition under Articles 226/227 of the Constitution.
The High Court entertained the writ petition, issued notice, and granted an interim order dated 21.04.2026. Aggrieved by the High Court's intervention, the appellants approached the Supreme Court. The appellants contended that the IBC provides a complete statutory appellate mechanism and, therefore, the High Court should not have exercised its writ jurisdiction.

ISSUES FOR CONSIDERATION

- **Whether the High Court should entertain a writ petition challenging an order of the NCLT passed under the IBC when an alternative statutory remedy of appeal is available under Section 61 of the IBC?**
- **Whether judicial discipline requires parties to exhaust the remedies provided under the IBC before invoking writ jurisdiction?**

CONTENTIONS OF PARTIES

PETITIONERS — DAVIS KOOTTALA VARKEY & ORS.	RESPONDENT — SAMSON T. GEORGE & ORS.
Although the constitutional powers of the High Court cannot be curtailed by statute, judicial discipline requires parties to first avail the statutory remedies provided under the IBC. Section 61 provides a comprehensive appellate mechanism against NCLT orders. Reliance was placed on: • **Committee of Creditors of KSK Mahanadi Power Company Ltd. v. Uttar Pradesh Power Corporation Ltd. & Ors.** • **Mohammed Enterprises (Tanzania) Ltd. v. Farooq Ali Khan**	After dismissal of the writ petition, the limitation period for filing an appeal before the NCLAT had already expired. Requested liberty to file an appeal along with an application under Section 14 of the Limitation Act seeking exclusion of the time spent before the High Court and Supreme Court.

DECISION OF THE SUPREME COURT

The Apex Court found substance in the appellant's submission. The Court noted that Section 61 IBC provides a right of appeal to any "person aggrieved" by an order of the adjudicating authority under Part II of the Code. The provision uses the expression "order" without restricting the nature of the order against which an appeal may be filed.

In these circumstances, the Court held that judicial discipline requires the High Court to refrain from entertaining a challenge to an order passed by the adjudicating authority/NCLT under the Code, particularly when the aggrieved person can raise the grievance in an appeal under the Code.

The Supreme Court allowed the appeal, set aside the Kerala High Court's order dated 21.04.2026, and dismissed the writ petition on the ground of availability of an alternative statutory remedy.

The Court granted liberty to the respondents to pursue appropriate remedies under the IBC.

SIGNIFICANCE OF THE CASE

This judgment strengthens the Supreme Court's consistent approach of discouraging direct writ challenges to NCLT orders under the IBC and reinforces the primacy of the statutory appellate mechanism under Section 61 of the Insolvency and Bankruptcy Code, 2016. It further emphasizes expeditious insolvency resolution by preventing parallel proceedings before constitutional courts where adequate alternate remedies exist.

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