(2015) 06 MAD CK 0444

In the Madras High Court

Case No : C.P. Nos. 215 and 216 of 2015

In Re: B. Rangaswamy Naidu Orchards Private Limited and Others

Date of Decision : 22-06-2015

Acts Referred:
Companies Act, 1956 — Section 391, 394, 542, 543

Citation : (2015) 06 MAD CK 0444

Hon'ble Judges : Pushpa Sathyanarayana, J

Bench : Single Bench

Advocate : Ramakrishnan Viraraghavan for G. Sivashankaran, for the Appellant

Final Decision : Allowed

Judgement

Pushpa Sathyanarayana, J—These company petitions are preferred under sections 391 and 394 of the Companies Act, 1956 read with Rule 11(a) and 79 of the Companies Court Rules, 1959 for sanctioning the scheme of amalgamation of the transferor company with the transferee company with effect from 1st April 2013. The scheme of amalgamation is annexed as Annexure - 3 in the petitions.

2. The petitioner in C.P. No. 215 of 2015 is the transferor company and the petitioner in C.P. No. 216 of 2015 is the transferee company.

3. A perusal of the records show that the petitioners have complied with the prescribed procedure. The certificates from the Statutory Auditors certifying that there are one secured creditor to the transferor company and no secured creditors to the transferee company are annexed as Annexure - "4" to the respective petitions. The consent letter from the secured creditor of the transferor company, viz., Bank of Baroda, is produced before the Court today. The copy of the board resolutions dated 16th March 2015 of the Board of Directors of the transferor company and transferee company, adopting the scheme of amalgamation, are enclosed as Annexure-7 to the respective petitions.

4. There are two equity shareholders to the transferor company and four equity shareholders to the transferee company. The consent affidavits from the equity shareholders of both the transferor and the transferee company to the scheme of

amalgamation is Annexed as Annexure - 6 in both the petitions. This Court, in its order dated 24.04.2015, in C.A. Nos. 480 and 481 of 2015 in the case of the transferor company and the transferee company, dispensed with the convening, holding and conducting of the meeting of the equity shareholders for the purpose of considering and if thought fit, approving with or without modification, the scheme of amalgamation of the transferor company with the transferee company.

5. On notice, the Regional Director, Ministry of Corporate Affairs has filed his report stating no objection to the scheme being sanctioned.

6. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The report of the Chartered Accountant states that the affairs of the transferor company have not been conducted in a manner prejudicial to the interest of its members or to public interest and they do not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and/or 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant and there are no materials to indicate that the affairs of the transferor company were being conducted in a manner prejudicial to the interest of its members or public interest and the affairs of the transferor company conducted in a manner prejudicial to its members.

7. I have perused the scheme filed in the company petitions and find it beneficial to the working of the transferee company and is in the interests of the transferor company. There is no objectionable feature in the scheme of amalgamation detrimental either to the employees of the transferor company or of the transferee company. The said scheme is not violative of any statutory provisions. The scheme is fair, just, sound and is not against any public policy or pubic interest. No proceedings are pending under the Companies Act, 1956. All the statutory provisions are complied with.

8. Consequently, there shall be an order approving the scheme of amalgamation of the transferor company B. Rangaswamy Naidu Orchards Private Limited, the petitioner in C.P. No. 215 of 2015 with the transferee company Gestione Consulting India Private Limited, petitioner in C.P. No. 216 of 2015, as provided in Annexure - 3 in these Company Petitions, with effect from 1.4.2013, as the procedure laid down under Sections 391 and 394 of the Companies Act are duly complied with. The petitions are allowed.

9. Taking note of the report by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the transferor company shall stand dissolved without winding up.

10. The learned Central Government Standing Counsel is entitled to a fee of Rs. 10,000/- (Rs. 5,000/- in each petitions) from the transferee company.