

(2014) 05 DEL CK 0358

In the Delhi High Court

Case No : Co. Appl. (M) 89/2014

In Re: Estio Builders & Developers Private Limited and Others

Date of Decision : 19-05-2014

Acts Referred:

Companies Act, 1956 — Section 235, 251, 391, 392, 393

Citation : (2014) 05 DEL CK 0358

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Devinder Singh, Advocates for the Appellant

Judgement

Sanjeev Sachdeva, J.—This is a first motion joint application under section 391 to 394 of the Companies Act, 1956 ("the Act"), in connection with the Scheme of Amalgamation of Estio Builders & Developers Private Limited (Transferor Company No1), Fadey Builders & Developers Private Limited (Transferor Company No. 2), Farica Builders & Developers Private Limited (Transferor Company No. 3), Gareth Builders & Constructions Private Limited (Transferor Company No. 4), Goodvalue Properties Private Limited (Transferor Company No5.) Harinakshi Estates Developers Private Limited (Transferor Company No. 6), Kimothy Builders & Developers Private Limited (Transferor Company No. 7), Mayukhi Real Estates Private Limited (Transferor Company No. 8), Melisenda Builders & Developers Private Limited (Transferor Company No. 9), Passion Builders & Developers Private Limited (Transferor Company No. 10), Purandar Estates Developers Private Limited (Transferor Company No. 11) Tatharaj Estates Private Limited (Transferor Company No. 12), Tusti Builders & Developers Private Limited (Transferor Company No. 13), Vedavrata Builders & Constructions Private Limited (Transferor Company No. 14), Zenobia Builders & Developers Private Limited (Transferor Company No. 15), Zubeda Real Estates Private Limited (Transferor Company No. 16) (Transferor Companies) with Felicite Builders & Constructions Private Limited (Transferee Company)(hereinafter all companies collectively referred to as Applicant Companies). A copy of the proposed Scheme of Amalgamation is filed along with the Application.

2. The registered offices of the Applicant Companies are situated within the National Capital Territory of Delhi and are within the jurisdiction of this Court.
3. The details with regard to the date of incorporation of Applicant Companies, their authorized, issued, subscribed and paid up capital have been given in the application.
4. The copies of the Memorandum and Articles of Association as well as the Audited Annual Accounts for the year ended 31.03.2013 of the Transferor Companies have also been enclosed with the application.
5. Learned Counsel for the Applicant Companies submitted that no proceedings under sections 235 and 251 of the Companies Act, 1956 are pending against any of the Applicant Companies as on date of the present Application.
6. The proposed Scheme has been approved by the Board of Directors of the Applicant Companies. Copies of the Board Resolutions have been filed along with the Application.
7. The status of the Shareholders, Secured and Un-secured Creditors of the Transferor and Transferee Companies and consents obtained from them for the proposed Scheme is clearly apparent from the chart given in the application which is as follows :
8. A prayer has been made for dispensation of the requirement of the convening meetings of the Shareholders and Unsecured Creditors of Applicant nos. 1 to 16 / the Transferor Companies and Applicant No. 17/ Transferee Company.
9. In view of the written consents / NOCs given by all the shareholders, the requirement of convening meetings of Shareholders Applicant nos. 1 to 16 / the Transferor Companies is dispensed with.
10. In view of the written consents / NOCs given by 91% in value and 99% in number of shareholders of Applicant No. 17/ Transferee Company, the requirement of convening meeting of Shareholders Applicant no. 17 / the Transferee Company is dispensed with.
11. In view of the written consent / NOC given, the requirement of the convening of meetings of the Unsecured Creditors of Applicant Company nos. 1 to 5, 7 to 10, 12 to 15 and 17, is dispensed with. However, Applicant Nos. 6, 11 & 16 have no Unsecured Creditor, accordingly, there is no requirement of convening meetings of Unsecured Creditors of Applicant nos. 6, 11 & 16.
12. Since the Applicant Nos. 1 to 17 have no Secured Creditors, Hence the requirement of convening meetings of Secured Creditors of Applicant nos. 1 to 17 does not arise.
13. The application stands allowed in the aforesaid terms.