

(2014) 07 DEL CK 0272
In the Delhi High Court
Case No : Co. Pet. 240/2014

In Re: Rose Dreams Marketing Pvt. Ltd.

Date of Decision : 22-07-2014

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2014) 07 DEL CK 0272

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Rajeev K Goel, Advocate, Atma Sah and Rajiv Bhel, Advocate for the Appellant

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J.—This second motion joint Petition filed under Sections 391 to 394 of the Companies Act, 1956 ("Act") seeking sanction to the Scheme of Amalgamation ("Scheme") of Rose Dreams Marketing Pvt. Ltd. (Transferor Company No. 1), Sunbless Finvest Ltd. (Transferor Company No. 2) with Pride Residency Pvt. Ltd. (Transferee Company) (Collectively referred to as the Petitioner Companies). A copy of the Scheme has been enclosed with the petition.

2. The registered offices of the Petitioner Companies are situated at New Delhi, within the jurisdiction of this Court.

3. The details of respective dates of incorporation of the petitioner companies, their authorised, issued, subscribed and paid up capital have been set out in the petition.

4. The copies of the Memorandum and Articles of Association of the Petitioner Companies have been enclosed with the petition.

5. The copies of resolutions passed by the Board of Directors of the Petitioner Companies approving the scheme have also been filed along with the petition.

6. Learned Counsel for the Petitioner Companies submits that no proceedings under Sections 235 to 251 of the Companies Act, 1956 is pending against the

Petitioner Companies.

7. The Petitioner Companies had earlier filed CA (M) 52 of 2014 seeking directions of this Court for dispensation/convening of meetings. Vide order dated 25th March, 2014, this Court allowed the Application and requirement of convening meetings of Shareholders of the Transferor Companies and the Transferee Company and the Unsecured Creditors of the Transferor Company No. 1 and the Transferee Company are dispensed with. None of the Applicant Companies has any Secured Creditors. Further, the Transferor Company No. 2 does not have any Unsecured Creditor as well.

8. The Petitioner Companies had thereafter filed the present Petition seeking sanction to the Scheme of Amalgamation. Vide order dated 22nd April, 2014, notice of the Petition was directed to be issued to the Registrar of Companies, Regional Director, Northern Region, Ministry of Corporate Affairs and the Official Liquidator attached with this Court. Citations were also directed to be published in "Business Standard" (English, Delhi Edition) and "Veer Arjun" (Hindi, Delhi Edition). Affidavit of Service and Publication has been filed by the Petitioners showing compliance regarding service of the Petition on the Regional Director, Northern Region and the Official Liquidator, and also regarding publication of citations in the aforesaid newspaper. Copies of the newspaper cuttings, in original, containing the publications have also been filed along with the Affidavit of Service.

9. In response to the notice issued, the Official Liquidator sought information from the Petitioner Companies. Based on the information received, learned Official Liquidator has filed his report dated 10th July, 2014, wherein he has stated that he has not received any complaint against the proposed Scheme from any person/party interested in the Scheme in any manner and that the affairs of the Transferor Companies, which is subject matter of dissolution, do not appear to have been conducted in a manner prejudicial to the interest of its members, creditors or to public interest as per 2nd proviso of Section 394(1) of the Act.

10. In response to the notice issued in the Petition, learned Regional Director, Northern Region, Ministry of Corporate Affairs has filed his Affidavit/Report dated 14th July, 2014. Relying on the Scheme of Amalgamation, he has stated that, upon sanction of the Scheme, all the employees of the Transferor Companies shall become the employees of the Transferee Company without any break or interruption in their services.

11. The Regional Director has in his affidavit further stated that despite notice, the Income Tax Authorities have not raised any objection with regard to the scheme.

12. No objection has been received to the Scheme of Amalgamation from any other party. Mr. Ravi Arora, Director of the Transferee Company has filed an affidavit confirming that neither the Petitioner Companies nor their Counsel has received any objection pursuant to citations published in the newspapers.

13. In view of the approval accorded by the Shareholders and Creditors of the Petitioner Companies, representation/reports filed by the Regional Director, Northern Region and the Official Liquidator, attached with this Court to the proposed Scheme of Amalgamation, there appears to be no impediment to the grant of sanction to the Scheme of Amalgamation. Consequently, sanction is hereby granted to the Scheme of Amalgamation under sections 391 and 394 of the Act. The Petitioner Companies will comply with the statutory requirements in accordance with law.

14. Certified copy of the formal order be filed with the Registrar of Companies within 30 days from the date of receipt of the same. In terms of the provisions of sections 391 and 394 of the Act, all the property, rights and powers of the Transferor Companies be transferred to and vest in the Transferee Company without any further act or deed. Similarly, all the liabilities and duties of the Transferor Companies be transferred to the Transferee Company without any further act or deed. Upon the Scheme coming into effect, the Transferor Companies shall stand dissolved without winding up.

15. It is, however, clarified that this order will not be construed as an order granting exemption from payment of stamp duty or any other charges, if payable, in accordance with any law; or permission/compliance with any other requirement which may be specifically required under any law.

16. The Learned Counsel for the Petitioner submits that the Petitioner Companies (collectively) would voluntarily deposit a sum of Rs. 1,00,000/- in the Common Pool fund of the Official Liquidator within three weeks from today. The Statement is accepted.

17. The Petition is allowed in the above terms.