

(2005) 11 RAJ CK 0029
In the Rajasthan High Court
Case No : Company Application No. 74 of 2005
In Re: Sutlej Industries Ltd.

Date of Decision : 17-11-2005

Acts Referred:

Companies Act, 1956 — Section 391(1), 393

Citation : (2006) 68 SCL 251

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Paras Kuhad, for the Appellant;

Judgement

S.K. Keshote, J.—The applicants have filed this application under Sections 391 and 393 of the Companies Act, 1956 ("the Act, 1956") for a direction of the Court to dispense with the meetings of the equity shareholders of the applicant transferee-company, and, as to the issue and publication of notices and the convening, holding and conducting of separate meeting of the equity shareholders, secured creditors and unsecured creditors of the applicant transferor-company and the appointment of the Chairman for the meeting aforesaid.

Sutlej Industries Limited "the applicant transferor-company" is a company duly incorporated on 22-11-1934 under the provisions of the Indian Companies Act, VII of 1913 as a public company limited by shares under the name of Sutlej Cotton Mills Limited. With effect from 13-9-1995 the name of the applicant transferor-company was changed to Sutlej Industries Limited; its registered office is situated at Pachpahar Road, Bhawanimandi (Rajasthan).

2. The position of authorized, issued, subscribed and paid-up share capital of the applicant transferor-company as on 31-3-2005 is detailed out in para No. 5 of the application.

3. The main objects of the applicant transferor-company, as set but in the object clause of its Memorandum of Association have been detailed out in para No. 6 of the application. The copy of the latest audited accounts of the applicant

transferor-company for the year ended on 31-3-2005 has been submitted as Annexure-C to the application.

4. Subsequent to the date of the aforesaid latest audited annual accounts, the applicant transferor-company has published its financial results for the quarter ended on 30-6-2005 in accordance with the listing agreements with the relevant Stock Exchanges i.e., (i) National Stock Exchange, Mumbai and (ii) Mumbai Stock Exchange, Mumbai and (iii) Calcutta Stock Exchange Limited, Kolkata.

5. Sutlej Textiles and Industries Limited "applicant transferee-company" was incorporated on 22-6-2005 under the name "Sutlej Textile and Industries Limited" under the provisions of the Companies Act, 1956 as a public company limited by shares. A Copy of Memorandum and Articles of Association of the applicant transferee-company has been annexed as Annexure-E to the application. The registered office of the applicant transferee-company is situated at Pachpahar Road, Bhawanimandi (Rajasthan).

6. The position of authorized, issued, subscribed and paid-up share capital of the applicant transferee-company as on 31-3-2005 is detailed out in para No. 12 of the application.

7. The main objects of the applicant transferee-company, as set out in the object clause of its Memorandum of Association, have been detailed out in para No. 13 of the application.

8. In para No. 14 of the application it has been mentioned that the annual accounts of the applicant transferee-company have not been audited as it has been incorporated recently on 22-6-2005, Apart from paid-up capital and assets and liabilities as on 30-6-2005 stated in the application, the applicant transferee-company has no other assets or liabilities.

9. The applicants have filed this application to obtain sanction of the Court to a Scheme of Arrangement whereby and whereunder Textile Division, as defined in the Scheme of Arrangement of the applicant transferor-company is to be demerged and transferred to the applicant transferee-company on the terms and conditions stated therein. A copy of the Scheme of Arrangement has been annexed to the application as Annexure-E.

10. The circumstances and/or reasons, which justify and/or necessitate the said Scheme of Arrangement, have been stated in para No. 16 of the application.

11. The Board of Directors of applicant transferor-company and the applicant transferee-company have, at their respective meetings by resolutions passed unanimously, approved the said Scheme of Arrangement.

12. Having heard learned Counsel for the applicants on perusal of the entire application and keeping in view the fact that the equity shareholders (seven in number) have given their consent (at page Nos. 226-232 of the application, respectively) to the proposed Scheme of Arrangement and further that the

applicant transferee-company is already a party to the Scheme of Arrangement, the holding of the meetings of the equity shareholders of applicant transferee-company is dispensed with.

13. It is further ordered that the separate meetings of the equity shareholders, unsecured creditors and secured creditors of the applicant transferor-company, for the purpose of considering and if thought fit, approving, with or without modifications, the Scheme of Arrangement aforesaid, shall be convened and held, as per the following schedule :

Name	Date & Time	Place	Equity	5-1-2006 at 1.30 PM	Pachpahar Road,
Shareholders	Bhawanimandi - 326502	Unsecured	5-1-2006 at 2.30 PM	Pachpahar Road,	Creditors
Bhawanimandi - 326502	Secured	Creditors	5-1-2006 at 3.30 PM	Pachpahar Road,	Bhawanimandi - 326502

14. That at least 21 clear days before the date fixed for the meetings an advertisement convening the same and stating that copies of the said Scheme of Arrangement and of the statements required to be furnished, shall be furnished, pursuant to Section 393 of the Act, 1956 and forms of proxy can be obtained free of charge at the office of the applicant transferor-company or from the office of its Advocate, be advertised once in the dailies, namely, Hindi Newspaper "Rajasthan Patrika" (Kota Edition) and English Newspaper "Times of India" (Jaipur Edition).

15. That at least 21 clear days before the meetings to be held as aforesaid, a notice convening the said meetings at the place and time aforesaid, together with copy of the said Scheme of Arrangement, a copy of the statement required to be sent u/s 393 of the Act, 1956, and the prescribed form of proxy, shall be sent by prepaid post under certificate of posting addressed to each of the equity shareholder, unsecured creditor and secured creditor, whose meetings are to be held, at the respective registered or last known addresses.

16. That the Advocate for the applicant transferor-company do, within the time as he considers necessary and at least within three days, file in Court the forms of the advertisement, the notices and statement to accompany the notices, and the same shall be settled by the Registrar of this Court.

17. That Shri Manoj Pareek, Advocate, Rajasthan High Court Bench, Jaipur, shall be the Chairman of the meetings of the equity shareholders, unsecured creditors and secured creditors to be held on 5-1-2006 as aforesaid. The applicant transferor-company shall deposit in the court or pay within one week from today an amount of Rs. 33,000 (Rs. 11,000 for each meeting) towards remuneration to the Chairman for presiding the meetings aforesaid. The applicant transferor-company shall also bear the expenses of conveyance, lodging, boarding etc. of the Chairman for the said meetings.

18. That the Chairman appointed for the meetings through applicant transferor-company, do issue the advertisement and send out the notices of the meetings

referred to above.

19. That the quorum for the said meetings shall be as per the provisions of the Act, 1956.

20. That voting by proxy be permitted, provided that a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings, is filed with the applicant transferor-company at its registered office, aforesaid, not later than forty-eight hours before the meetings scheduled to be held,

21. That the value of each equity shareholder secured and unsecured creditors shall be in accordance with the books of the applicant transferor-company and, where the entries in the books are disputed, the Chairman shall determine the value for purposes of the meetings.

22. And, it is further ordered that the Chairman do separately report to this Court the result of the said meetings within seven days of the conclusion thereof, and the said reports shall be verified by his affidavit.

23. With these directions the application accordingly stands disposed of.