

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH III**

**Coram: CHIEF JUSTICE (RTD.) M.M. KUMAR
SHRI V.K.SUBBURAJ, MEMBER (TECHNICAL)**

CA (CAA)- 138/ND/2018

**IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT,
2013**

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Arrangements) Rules, 2016.

AND

In the matter of Scheme of Amalgamation

OF

HARNOOR MARKETING LTD.

(Transferor Company/Applicant Company-1)

WITH

MYNA HOMES PRIVATE LTD.

(Transferee Company/ Applicant Company-2)



MEMO OF PARTIES

HARNOOR MARKETING LTD

[CIN: U52322DL1997PLC087811]

Company Incorporated under Companies Act, 1956

Having its registered office at:

C-1-216, LAJPAT NAGAR-1,

New Delhi-110024

Through its authorized representative Director:

Mr. Maneet Singh

..... TRANSFEROR COMPANY - (APPLICANT COMPANY-1)

MYNA HOMES PRIVATE LIMITED

[CIN: U45204DL2011PTC224187]

Company Incorporated under Companies Act 1956

Having its registered office at:

C-9, Main Market, Vasant Vihar,

NEW DELHI-110057

Through its authorized representative and Director:

Mr. Maneet Singh

...TRANSFEREE COMPANY - (APPLICANT COMPANY-2)

**For the Applicants: Mr. Rajeev K Goel, Mr. Ajay Garg, Mr. Praveen
K Bharti and Mr. Kartikeya Goel
(Advocates for the Applicants)**

ORDER

Delivered on: 3.10.2018

Dr. V.K. SUBBURAJ, Member (Technical)

1. This is an application filed by, Harnoor Marketing Limited (for brevity "Transferor Company"), jointly with Myna Homes Private Limited (for brevity "Transferee Company") jointly under section 230-232 of Companies Act, 2013, and its other applicable provisions read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the Scheme of Arrangement by way of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants. The said Scheme is also annexed as Annexure "A-4" to the application. The applicants have preferred the instant application for the following purpose as is evident, inter alia, from the reliefs sought in the Application, namely:

- a) Dispense with the requirement of convening meetings of shareholders of the Transferor Company and the Transferee company.
- b) Dispense with the requirement of convening meetings of unsecured Creditors of the Transferor Company and the Transferee Company. None of the Transferor Company and the

Transferee Company has any Secured Creditors as on the date of filing of the present Application.

- c) Direct service of notice of the present Application (a) the Central Government through the office of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi; (b) the Registrar of Companies, Delhi and Haryana, New Delhi (c) The Official Liquidator, New Delhi; and (d) the Income Tax Department and
- d) Pass such other/further order(s) as this Hon'ble Tribunal may deem fit and proper.
2. An affidavit in support of the above application sworn for and on behalf of the Transferor Company and for the Transferee Company by one Mr. Maneet Singh has been filed, being a Director of the respective Companies along with the application and it is also represented that the registered offices of both the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within the domain of Registrar of Companies, NCT, New Delhi.
3. In relation to Harnoor Marketing Limited being the Transferor Company, in the Scheme marked as Annexure "A-4", it is represented that it has 7 Shareholders and all of them have given their consents by the way of affidavits in support of the scheme. It is further represented by the counsel for the Applicants that the Transferor Company has 5 Unsecured Creditors and all of them have given their consents by the way of affidavits. It is



also represented that the Transferor Company has no Secured Creditor as on 29.8.2018. In relation to the shareholders and unsecured creditors of the Transferor Company, it seeks for dispensing with holding of the meetings as consent has been placed on record in the form of affidavits and in respect of Secured Creditors, the transferor Company is having none and hence convening of meeting be dispensed with.

4. In relation to Myna Homes Private Limited being Transferee Company in the Scheme marked as Annexure "A-4", Learned Counsel represents that company is having 2 Shareholders. It is further represented by the counsel that the Transferee Company has "NIL" Secured and "4" Unsecured creditors, as on 28.2.2018. In relation to the shareholders, it seeks for dispensing with convening and holding of the meetings for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent by way of affidavits having been obtained all of which also been placed on record. Similarly, in view of no Secured creditor and there being only four Unsecured Creditors who have also given their consent in the form of affidavit, their meetings be also dispensed with.

5. In relation to the territorial jurisdiction, Ld. Counsel for the applicant companies submit that since the registered office of the respective companies fall within the purview of Registrar of Companies, NCT, New Delhi, and situated within Delhi, this Tribunal has the necessary territorial jurisdiction to entertain the joint application.

6. We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Arrangement contemplated between the Applicant companies.

7. From the certificate of incorporation filed, it is evident that Transferor Company is a private limited company incorporated under the provisions of Companies Act, 1956 on 9.6.1997, with Registrar of Companies, New Delhi under the name and style of " Harnoor Marketing Limited", with the Corporate Identity Number of the Transferor Company registered with the Registrar of Companies, NCT of Delhi & Haryana being U52322DL1997PLC087811.

8. The Authorized Share Capital of the Transferor Company is Rs. 50,00,000/- (Fifty Lakhs Only) divided into 5,00,000 (Five Lakhs Only) Equity Shares of Rs.10/- (Rupees Ten only) each. The Paid-up Share Capital of the Transferor Company is Rs. 50,00,000/- (Rupees Fifty Lakhs Only) divided into 5,00,000 (Five Lakhs Only) Equity Shares of Rs.10/- (Rupees Ten only) each fully paid up.

9. From the certificate of incorporation filed, it is evident that the Transferee Company is a private limited company incorporated under the provisions of Companies Act, 2013 on 26th August 2011, vide CIN:

U45204DL2011PTC224187 with Registrar of Companies, NCT of Delhi & Haryana under the name and style of " Myna Homes Private Limited".

10. The Authorized Share Capital of the Transferee Company is Rs. 1,00,000/- (Rupees one Lakh Only) divided into 10,000 (Ten thousand only) equity Shares of Rs.10/- (Rupee Ten only) each. The Paid-Up Share Capital of the Transferee Company as on date is Rs. 1,00,000/- (Rupees One Lakh Only) divided into 10,000/- (Ten Thousand Only) Equity Shares of Rs.10/- (Rupee Ten only) each.
11. Both the applicants have filed their Memorandum and Articles of Association inter alia delineating their object clauses as well as their last available Audited Annual Accounts for the year ended 31.03.2017 and un-audited financial statements for the year ended 28.2.2018.
12. The Board of Directors of the Applicant companies vide meeting held on 6th August 2018 at 11:00 a.m. respectively, have unanimously approved the proposed Scheme of Amalgamation as contemplated above and copies of resolutions passed thereon have been placed on record by the companies.
13. The appointed date as specified in the Scheme is 1st April, 2018 subject to the directions of this Tribunal.

14. Taking into consideration the application filed jointly by the Applicant Companies and the documents filed therewith, this Tribunal propose to issue the following directions with respect to calling, convening and holding of the meetings of the Shareholders, Secured and Unsecured Creditors, or dispensing with the same as well as issue of notices including by way of paper publication as follows: -

A) In relation to the Transferor Company:

(i) With respect to shareholders:

Since it is represented by the Transferor Company that there are 7 shareholders in the Company whose consents by way of affidavits have been obtained and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferor Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.

(iii) With respect to Unsecured Creditors:

Since it is represented by the Transferor Company that there are four Unsecured Creditors in the company, whose consents have been

obtained by way of affidavits and are placed on record, the necessity of convening and holding a meeting to consider and if thought fit, the approval of the scheme is dispensed with.

B) In relation to Transferee Company:

(i) With respect to shareholders:

Since it is represented by the Transferee Company that there are 2 shareholders in the Company whose consents by way of affidavits have been obtained and are placed on record, the necessity of convening and holding a meeting to consider, the approval of the scheme is dispensed with.

(ii) With respect to Secured Creditor:

Since it is represented by the Transferee Company that there is no Secured Creditor in the Company, the necessity of convening a meeting does not arise.


(iii) With respect to Unsecured Creditors:

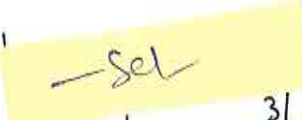
Since it is represented by the Transferee Company that there are five Unsecured Creditors whose consent have been obtained and

placed on record by the company, the necessity of convening a meeting does not arise.

The application stands allowed on the aforesaid terms. Let the petition for approval of the scheme of Amalgamation be filed within a period of seven days from the date of this order.

October 3, 2018


— Sel —
(M.M. KUMAR)
(PRESIDENT)


— Sel —
(Dr. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

3/10/2018