

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No.: 949/252/NCLT/MB/MAH/2018

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Silversand Real Estate Private Limited, 267
Linking Road, Comfort House, Bandra (W),
Mumbai – 400050.

....Petitioner/Applicant Company

v.

Registrar of Companies, Mumbai

..... Respondent

Heard on : 23.04.2018

Order delivered on: 26.04.2018

Coram :

Hon'ble M. K. Shrawat, Member (J)

For the Petitioner :

Mr. Ulhas Shetty, PCS i/b. Ulhas Shetty & Co. – Authorised Representative for the
Petitioner/Applicant Company.

For the Respondent :

Mr. Neelambuj – Advocate for the RoC.

Per : M. K. Shrawat, Member (J)

ORDER

1. This present petition/application has been filed under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by “M/s. Silversand Real Estate Private Limited” (hereinafter as **Petitioner Company**) to restore its name in the Register maintained by the Registrar of Companies, Mumbai (hereinafter as **RoC**).
2. The Petitioner Company was incorporated with the RoC, Mumbai on 30.09.1999 having CIN : U70100MH1999PTC122033.
3. The name of the Petitioner Company was struck off from the Register on account of the reasons that, the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S.

455 of the Act. Hence, the RoC has published a public notice for Striking off and Dissolution of Company i.e. STK – 7 dated 28.07.2017.

Submissions from the Petitioners:

4. The Learned Representative for the Petitioner Company has submitted that, it is an accepted position that the Petitioner Company is not actively engaged in the business since its incorporation.
5. It is further stated that, the Petitioner Company has purchased a land in the village named "Varsoli" at Alibaug, Raigad District of Maharashtra. The said land is duly registered in the name of the Petitioner Company and the copy of the Purchase/Conveyance Deed is annexed with the Petition/Application.
6. It is further stated that, though the land is purchased, the neighbouring plot owners of the said land had filed a "Injunction Suit" in the Civil Court, Senior Bench, Alibaug, Raigad District, Maharashtra bearing plaint no. 45/2009 on 13.02.2009.
7. It is further stated that, the said Suit is pending for Adjudication before the Judicial Authority and the Petitioner Company is pursuing the same.
8. It is further stated that, the Petitioner Company had also got a Sanction for Construction over the said land by the Municipal Council, Alibaug initially on 04.09.1999 and then again a Fresh Sanction on 25.01.2005.
9. It is also stated that, the Directors of the Petitioner Company are also having Directorship in three other Companies, which are compliant and active, namely "M/s. Premium Petroleum Products Private Limited", "M/s. Nuzhat Exports Private Limited" and "M/s. Moonstone Properties Private Limited". But due to the name of the Petitioner Company is Struck-off the Directors are also got Disqualified in the eyes of Law. Consequently, these other Companies are getting affected in their day to day business.
10. Hence, it is prayed that the action of the RoC to Strike-off the name of Petitioner Company will cause great prejudice to the Petitioner Company and also to the Directors and therefore the name of the Petitioner Company may be restored in the Register maintained by the RoC.

Submissions from the Respondent/RoC:

11. The RoC has forwarded its report dated 12.04.2018 inter alia stating therein that, the RoC has issued the notice in Form STK – 1 on 10.03.2017 to the Company on the ground that, the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any

application within such period for obtaining the status of Dormant Company under S. 455 of the Act. Further, the RoC has published the name of Company on its official website vide STK – 5 on 18.05.2017. But inspite of two notices there is no representation from the side of the Petitioner Company. Hence, consequentially the RoC has issued public notice i.e. STK – 7 dated 28.07.2017 intimating that the name of Company is been struck-off from the Register of RoC.

12. It is also submitted that, the Petitioner Company has not filed the Annual Returns and Balance Sheets with the RoC from the F.Y. 2005-06 till date. And as the Statutory Returns were not filed for the said period, the RoC came to conclusion that, the Petitioner Company has ceased to its business. And consequentially the name has been struck-off from the Register of RoC.
13. However, it is further submitted in the said report that the RoC has no objection to restore the name of the Petitioner Company, if the Petitioner Company is willing to comply with the provisions of the Act, subject to imposition of Cost.

Findings:

14. I have gone through the submissions made by the Learned Representative of the Petitioner Company and also through the pleadings on record.
15. While going through the Pleadings on record it came to my knowledge that, the Petitioner Company had purchased a Property through a Registered Sale Deed dated 17.10.1998 for a consideration of ₹ 8,00,000/-.
16. Further that, the Municipal Council, Alibaug has given a permission vide a letter dated 25.01.2005 for a construction over the said purchased land.
17. Further that, the Balance Sheet of the Petitioner Company regularly drawn till date is showing the acquisition value at ₹ 9,00,000/-, naturally inclusive of statutory expenses incurred for acquisition of land.
18. Further that, there is a dispute is pending in nature of Civil Suit with the Civil Court, Senior Division, Alibaug pertaining to the said Land and due to the said dispute the development over the said Land could not happened.
19. Further that, if the name of the Petitioner Company is struck-off then there will be great prejudice be caused to the Petitioner Company in the said Civil Suit.

20. Further that, the Directors of the Petitioner Company are also Directors in other Companies which are Active and not Struck-off. Hence, the Strike-off action will also cause Prejudice to the Directors also.
21. Hence, by going through the Facts and Circumstances involved in this case, in my conscientious view the Petitioner Company deserves the Restoration of its name in the Register of the RoC.
22. Accordingly, this Petition/Application is allowed. The restoration of the Company's name to the Register of Companies maintained by the RoC Mumbai, is hereby ordered, with a direction that the Company shall comply with the Provisions of the Act. And further it will be subject to payment of costs of ₹ 1,00,000/- to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai", within 7 days from the receipt of the duly certified copy of this Order, to this office. Consequentially thereupon the Bank Account/s if freezed shall get defreezed and to be operated by the Petitioner Company.
23. This Petition bearing No. 949/252/NCLT/MB/2018 is, therefore, disposed of on the terms directed above. The Learned RoC shall give effect to this Order only after perusal of the Compliance report of the costs imposed. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by RoC.
24. Ordered accordingly. To be consigned to Records.

Sd/-

Dated : 26.04.2018

**M. K. SHRAWAT
MEMBER (JUDICIAL)**

Avinash