

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

T.C.P No.62/(MAH)/2014
IA 04/2016, CA No. 237/2014 & 280/2014

CORAM:

Present:

SHRI M. K. SHRAWAT
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 13.09.2017

NAME OF THE PARTIES: Mr. Rajoo Shah
V/s.
M/s. Safal Developers Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 58-59, 397/398 of the Companies Act
1956 and 241/242 of the Companies Act, 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
1)	Kunal Dwarkadas Nitesh Ranavat i/b Wadia Ghandy & Co Advocate for Res No 2 to 4	Advocate Advocate	
2)	Dinesh Nayak For Res nos 1, 3 & 4	Director/ Authorized Signatory	
3)	Sanjay Udesli i/b Sanjay Udesli & Co along with Mr. Rohan Lama [counsel] Mr. Rajoo Shah & Mr. Bhaan Shah	Advocate for petitioner	
4)	Vandana Bandgar Mr. Laxmi Chedda Mr. Hardik Chedda	Adv for Res 5a-5c	
5)	Kalpesh Joshi Dinesh Nayak	Advocate R-1 Director R-1.	

(Contd.-2)

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ORDER

I.A. No. 04/2016, C.A. Nos. 237/2014 & 280/2014

IN

T.C.P. No. 62/397-398/CLB/MB/MAH/2016

1. The Learned Representatives of both the sides are present.
2. Consent Terms duly signed by the respective sides dated 07.09.2017 is placed on record to be marked as "Annexure A". As per the Consent Terms the dispute has been settled.
3. Therefore with a word of appreciation to the Learned Representatives and Parties this matter stands disposed of as per the Consent Terms annexed herewith. *mes*
4. All Pending Applications and the Petition stands disposed of. To be Consigned to Records.

Sd/-

Bhaskara Pantula Mohan
Member (Judicial)

13.09.2017

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Sd/-

M.K. Shrawat
Member (Judicial)

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
IN
COMPANY PETITION NO. 62 OF 2014

Mr. Rajoo Shah & Another ... Petitioners
Versus
Safal Developers Pvt. Ltd. & Ors. ... Respondents

**CONSENT TERMS BETWEEN THE PETITIONERS AND THE RESPONDENT
NOS. 1 TO 4, 5(a), 5(b) and 5(c)**

1. The captioned Company Petition No. 62 of 2014 filed by the Petitioner No. 1 and the Petitioner No. 2 (hereinafter collectively referred to as "**the Petitioners**") against the Respondents Nos. 1 to 9 (hereinafter collectively referred to as "**the Respondents**") is awarded/ decreed in terms of these Consent Terms.
2. The Respondent No. 1 is a company incorporated under the provisions of the Companies Act, 1956 having its registered office at 402, Sagar Avenue, Above ICICI Bank, 54B S V Road, Andheri (W), Mumbai- 400058 having its shareholding pattern, prior to execution of these presents is as follows:

Sr. No.	Shareholders	No. of shares held
1.	Sudhakar M. Shetty (Respondent No.2)	72,000
2.	Sahana Builders & Developers Private Limited (Respondent No.3)	1,78,000
3.	Sahana Construction Private Limited (Respondent No.4)	2,40,000
4.	Rajoo V. Shah (Petitioner No.1)	2,000
5.	Rajoo V. Shah (HUF) (Petitioner No.2)	8,000
TOTAL		5,00,000

3. The Petitioners have filed the captioned Company Petition alleging irregularities in the allotment of the fresh equity shares of the Respondent No. 1 Company which took place on 12th February 2009 whereby inter-alia 40,000 (Forty Thousand Only) Equity Shares of the Respondent No. 1 Company came to be issued and allotted to the Respondent No. 5 i.e. Mr. Mukesh Chheda (since deceased represented by his legal heirs being Respondent Nos. 5(a), 5(b) and 5(c)). The Petitioners have inter-alia alleged that they were entitled to the allotment of the said 40,000 (Forty Thousand Only) Equity Shares of the Respondent No. 1 Company instead of the same being allotted to Mr. Mukesh Damji Chheda (being the predecessor in title of the Respondent Nos. 5(a) to 5(c)) ("**The said Shares**"). The Petitioners have thus filed the captioned Company Petition against the Respondents on the grounds of alleged oppression and mismanagement in the affairs of the Respondent No. 1 Company under Sections 397 and 398 of the Companies Act, 1956 and for rectification of the register of the Company under Sections 58 and 59 of the Companies Act, 2013.
4. The Respondent No. 1 Company and the Respondent Nos. 2 to 4 (hereinafter referred to as "**the Sahana Group**") have represented that save and except the shares held by the Petitioners i.e. (i) being 2,000 (Two Thousand Only) Equity Shares having a face value of Rs. 10/- (Rupees Ten Only) each bearing distinctive numbers 80703 to 82702 under Certificate No. 22 under Folio No. 24 held by the Petitioner No. 1 ("**Petitioner No. 1's Shares**"), and (ii) 8,000 (Eight Thousand Only) Equity Shares having a face value of Rs. 10/- (Rupees Ten Only) each bearing distinctive numbers 82703 to 90702 under Certificate No. 23 under Folio No. 25 held by the Petitioner No. 2 ("**Petitioner No. 2's Shares**"), the Petitioners (or any of them) have no right title and interest in the Company or any shares / securities of the Company or any of the properties of the Company (whether movable or immovable or otherwise). The Petitioner No. 1's Shares and the Petitioner No. 2's Shares are hereinafter collectively referred to as "**the Petitioner Shares**". *The Petitioners declare that the Petitioner No. 1 and Mr. Pavan R. Shah (son of Petitioner No. 1) are the only co-partners of the Petitioner No. 2 HUF.*
5. The Respondent Nos. 6 to 9 were the erstwhile shareholders of the Respondent No. 1 Company and have duly sold all the equity share of the Respondent No. 1 Company held by them to Sahana Group.

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6. The Respondent Nos. 5(a), 5(b) and 5(c) have also since sold transferred and assigned the said Shares to Sahana Group on or about September 2014.
7. In light of the same, the Respondent Nos. 5(a), 5(b) 5(c), 6, 7, 8 and 9 have no right title and interest in the Company or any shares / securities of the Company or any of the properties of the Company (whether movable or immovable or otherwise).
8. Pursuant to negotiations between the Petitioners and the Respondent Nos. 1, to 4, 5(a), 5(b) and 5(c), all disputes and differences have now been amicably resolved and the parties to these Consent Terms have arrived at, a full and final settlement, the terms whereof have been set out hereinbelow and no cause of action, therefore, survives: -
- (a) The Petitioners hereby (i) sells and transfers the Petitioner Shares to the Respondent No. 4 i.e. Sahana Construction Private Limited and the Respondent No. 4 i.e. Sahana Construction Private Limited hereby purchases and acquires the Petitioners Shares from the Petitioners, for a lumpsum consideration amount of Rs. 1,00,00,000/- (Rupees One Crore Only) in full and final settlement. Sahana Group has duly paid this amount of Rs. 1,00,00,000/- (Rupees One Crore Only) to the Petitioners in the following manner (the payment and receipt whereof the Petitioners doth hereby admit and acknowledge and of and from the same and every part thereof doth hereby release, discharge and acquits the Sahana Group forever).
- (i) Rs. 20,00,000/- (Rupees Twenty Lakh only) to Mr. Rajoo V. Shah (Petitioner No.1) vide cheque No. 240329 dated 26.12.2011 of Union Bank of India. Cheque No. 240329 dated 26.12.2011 issued by Sahana Constructions Pvt. Ltd. is for an amount of Rs. 50,00,000/- (Rupees Fifty Lac only) out of which an amount of Rs. 20,00,000/- (Rupees Twenty Lakh only) has been appropriated in the manner as stated in this Clause and the balance amount of Rs. 30,00,000/- (Rupees Thirty Lac only) has been appropriated in the manner as set out in the Clause 8(c)(i) herein below.
- (ii) Rs. 80,00,000/- (Rupees Eighty Lakh only) to Rajoo V. Shah H.U.F. (Petitioner No. 2) vide Demand Draft No. 667860 dated

Rajoo V. Shah

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6th September, 2017 issued by Union Bank of India, Juhu Vile Parle West branch.

- (b) The Petitioners doth hereby release and relinquish their alleged right, title, claim or interest to the said Shares being the said 40,000 (Forty Thousand Only) Equity Shares issued to Mr. Mukesh Damji Chheda (being the predecessor in title of the Respondent Nos. 5(a) to 5(c)). The Petitioners also doth hereby confirm the transfer of said Shares by the Respondent Nos. 5(a) to 5(c) in favour of the Sahana Group;
- (c) Safal Developers Private Limited has agreed to pay to the Petitioners, by way of full and final settlement, a sum of Rs. 16,00,00,000/- (Rupees Sixteen Crores only) ("**the said Amount**") for relinquishing their alleged right, title, claim and interest to the said Shares issued to Mr. Mukesh Damji Chheda against the Company and Mr. Mukesh Damji Chheda and for confirming sale of these Equity Shares by the legal heirs of Mukesh Damji Chheda i.e. Respondent Nos. 5(a), 5(b) and 5(c) in favour of the Sahana Group. Out of the said Amount, Rs. 16,00,00,000/- (Rupees Sixteen Crores only), on or before execution of these Consent Terms paid to the Petitioners an amount of Rs. 13,00,00,000/- (Rupees Thirteen Crores only) in the following manner (the payment and receipt whereof the Petitioners doth hereby admit and acknowledge and of and from the same and every part thereof doth hereby release, discharge and acquits the Sahana Group forever):
- (i) A sum of Rs. 30,00,000/- to Mr. Rajoo V. Shah (Petitioner No. 1) adjusted out of the payment of Rs. 50,00,000/- paid by Sahana Constructions Pvt. Ltd. vide cheque No. 240329 dated 26.12.2011, as stated in the Clause 8(a)(i),
- (ii) A sum of Rs. 2,30,00,000/- (Rupees Two Crores Thirty Lakh only) to Mr. Rajoo V. Shah (Petitioner No. 1); vide Demand Draft No. 667861 dated 6th September, 2017 issued by Union Bank of India, Juhu Vile Parle West branch, and
- (iii) A sum of Rs. 10,40,00,000/- (Rupees Ten Crores Forty Lakh only) to Rajoo. V. Shah H.U.F. (Petitioner No. 2) vide Demand Draft No. 667862 dated 6th September, 2017 issued by Union Bank of India, Juhu Vile Parle West branch.

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- (iv) The balance amount of Rs. 3,00,00,000/- (Rupees Three Crores only) out of the said Amount ("**Balance Amount**") shall be paid to the Petitioners within a period of 1 (one) year from the date of execution of this Consent Terms in the following manner:
- a. A sum of Rs. 60,00,000/- (Rupees Sixty Lakh only) shall be paid to Mr. Rajoo V. Shah, the Petitioner No. 1; and
 - b. A sum of Rs. 2,40,00,000/- (Rupees Two Crores Forty Lakh only) shall be paid to Rajoo. V. Shah HUF, the Petitioner No. 2.
- (d) The Petitioners have handed over to the Sahana Group, the original share certificates representing the Petitioner Shares;
- (e) The Petitioners have handed over the valid share transfer forms duly executed and stamped by the Petitioners as the transferors for transferring the Petitioner Shares to the Sahana Group;
- (f) The Respondent No. 1 Company shall duly register the transfer of the Petitioner Shares in the name of Sahana Construction Private Limited and shall enter the name of Sahana Construction Private Limited in the register of members of the Company and the parties shall make all the appropriate filings with the office of the ROC.
- (g) The parties to the captioned Company Petition shall execute all such deeds, documents and writings and perform all such acts, deeds and things as may be required by the Sahana Group to effectively consummate the transactions contemplated herein.
- (h) The relinquishment of the alleged right, title, claim and interest of the Petitioners to the said Shares issued to Mr. Mukesh Damji Chheda against the Company and Mr. Mukesh Damji Chheda and for confirming sale of these Equity Shares by the legal heirs of Mukesh Damji Chheda i.e. Respondent Nos. 5(a), 5(b) and 5(c) in favour of the Sahana Group as set out above is subject to realization of the Balance Amount viz. an amount of Rs. 3,00,00,000/- (Rupees Three Crores only).

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- (i) The Petitioners doth hereby withdraw all allegations, insinuations and claims made in the captioned Company Petition.
- (j) The Petitioners never had, nor has and will not claim any right in the agreements for sale and the buy-back agreements as alleged in the captioned Company Petition or at all.
- (k) Save and except the Petitioners Shares held by the Petitioners, the Petitioners never had, nor has and shall not claim, any rights, title and / or interest of any nature whatsoever in / against (i) the Respondent No. 1 Company and / or (ii) the shares / securities of the Respondent No. 1 Company and /or (iii) any of the properties and assets of the Respondent No. 1 Company whether movable or immovable or otherwise (iv) the Respondent Nos. 1 to 9 or any of them, or (v) otherwise.
- (l) Subject to realization of the Balance Amount, the Petitioner has not and shall not institute any proceedings against any of the Respondents and / or any of the properties of the Respondents before any court of law, any statutory authorities, Tribunals, Government authorities or any other person.

9. In light of the settlement of the disputes and differences between the parties to these Consent Terms, the following is agreed and declared by and between the parties to these Consent Terms that on and from execution hereof:

- (a) The Sahana Group shall be the 100% shareholder of the Respondent No. 1 Company and save and except Sahana Group no other person has and / or shall have in the Respondent No. 1 Company and / or the shares / securities of the Respondent No. 1 Company and /or any of the properties and assets of the Respondent No. 1 Company whether movable or immovable or otherwise;
- (b) The Sahana Group shall be entitled to operate and manage the Respondent No. 1 Company in the manner as it deem fit and to take all the decisions with respect the same at their sole discretion.

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(2) Mr. Pavan R. Shah

Safal Developer

(Mr. Dheesh Naik)
s Pvt. Ltd (Director)

Wapah .. 12/9/17

KALPESH JOSHI ASSOCIATES
ADVOCATES
Bheramji Mansion, 4th Floor,
Sir P. M. Road, Opp. Kashmir Emporium,
Fort, Mumbai - 400 001

Shetty

Mr. Sudhakar M. Shetty
Respondent No. 2

Arora

Advocates for the Respondent
Nos. 2 to 4

Naik

(Mr. Dinesh Naik)
(Director)

Sahana Builders and Developers Pvt. Ltd.

Respondent No. 3

Naik

(Mr. Dinesh Naik)

Sahana Constructions Private Limited

Respondent No. 4

Chheda

Advocates for the Respondent
Nos. 5(a) to (c)

Legal heirs of Mukesh Chheda,

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(Interpreted in Gujarati)
a) Mrs. Pratibha Chheda

Hardik

b) Mr. Hardik Chheda

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c) Mrs. Pooja Kenia

Respondent No. 5 (a) to 5(c)