

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

CSA NO. 1003 OF 2017

In the matter of Sections 230 to 232 and any corresponding provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

AND

In the matter of Scheme of Arrangement between The Manjri Stud Farm Private Limited ("Demerged Company"), Manjri Developers Private Limited ("Resulting Company 1") and Phenomenon Developers Private Limited ("Resulting Company 2") and their respective Shareholders

The Manjri Stud Farm Private Limited, a company }
incorporated under the provisions of the Companies Act, }
VII 1913 having its registered office at No 70, Nagindas }
Master Road, Fort, Mumbai 400 023, India }

.....First Applicant/Demerged Company

AND

Manjri Developers Private Limited }
a company incorporated under the provisions of the }
Companies Act 1956 having its registered office at }
No.70, Nagindas Master Road, Fort, Mumbai - 400023 }

....Second Applicant / First Resulting Company

AND

Phenomenon Developers Private Limited }
a company incorporated under the provisions of the }
Companies Act 1956 having its registered office at }
No.70, Nagindas Master Road, Fort, Mumbai - 400001 }

.....Third Applicant / Second Resulting Company

Order delivered on 13th day of December, 2017

Coram:

Hon'ble B.S.V. Prakash Kumar, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Applicants (s): Hemant Sethi i/b. Hemant Sethi & Co., Advocates for Petitioners

Per: B.S.V. Prakash Kumar, Member (J)

ORDER

1. The Counsel for the Applicant Companies states that the present Scheme is an Arrangement between The Manjri Stud Farm Private Limited ("Demerged Company"), Manjri Developers Private Limited ("Resulting Company 1") and Phenomenon Developers Private Limited ("Resulting Company 2") and their respective shareholders. In this Scheme of Arrangement, the Transferor Company proposes to demerge its SEZ Undertaking into First Transferee Company and its IT Resi Undertaking into the Second Transferee Company without winding up of the Transferor Company pursuant to the relevant provisions of the Act.
2. The Counsel for the Applicants further submit that the Transferor Company is engaged in the business of real estate development such as residential development, Special Economic Zone ("SEZ") for IT / ITES, Information Technology Parks ("IT Parks") and other commercial segments. The First Transferee Company is a company engaged in the business of development of real estate construction and development. The Second Transferee Company is engaged in the business of real estate construction and development.
3. The Counsel for the Applicants further submit that the Transferor Company is desirable and expedient to reorganize its business operations. The operations of Transferor Company presently comprises of present and potential rent generating assets where planning is complete and under construction and future development assets which are still at planning stage. In order to ensure sustainable long-term growth, profitability, market share and continuous customer service, it requires focused management attention, different set of skills and resources to meet competitive, regulatory environment and to mitigate risk. With this objective in mind, it is proposed to transfer and vest the SEZ Undertaking into First Transferee

Company and IT-Resi Undertaking into Second Transferee Company, by way of demerger, which will enable the Board of Transferor Company to focus on the already planned projects as envisaged in the Scheme.

4. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at No 70, Nagindas Master Road, Fort, Mumbai 400 023, Maharashtra, on Monday, 22 January, 2018 at 10 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement between The Manjri Stud Farm Private Limited, Manjri Developers Private Limited and Phenomenon Developers Private Limited and their respective shareholders.
5. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at No.70, Nagindas Master Road, Fort, Mumbai - 400023, Maharashtra on Monday, 22 January, 2018 at 11 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement between The Manjri Stud Farm Private Limited, Manjri Developers Private Limited and Phenomenon Developers Private Limited and their respective shareholders.
6. That the meeting of the Equity Shareholders of the Third Applicant Company be convened and held at No.70, Nagindas Master Road, Fort, Mumbai - 400001, Maharashtra on Monday, 22 January, 2018 at 12 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Amalgamation of Scheme of Arrangement between The Manjri Stud Farm Private Limited, Manjri Developers Private Limited and Phenomenon Developers Private Limited and their respective shareholders.
7. That at least thirty days before the said meeting of the Equity Shareholders of the respective Applicant Companies to be held as aforesaid, a notice convening the

place, date and time of the meeting as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230 (3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 notified on 14th December 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post / Speed Post/ Hand Delivery or through Email (to those shareholders whose email addresses are duly registered with their respective Applicant Companies for the purpose of receiving such notices by email), to each of the Equity Shareholders of the respective Applicant Companies, at their last known address or email addresses as per the records of the respective Applicant Companies.

8. That at least thirty days before the meeting of the Equity Shareholders of the respective Applicant Companies to be held as aforesaid, a notice convening the said meeting, indicating the place, date and time of meeting as aforesaid be published stating that the copies of the Scheme and the statement required to be furnished pursuant to Section 230 (3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the respective Applicant Companies, as aforesaid.
9. That a composite notice of the meetings shall be advertised, for all the Applicant Companies in two local newspapers viz. 'Free Press Journal' (Mumbai edition) in English language and translation thereof in 'Navshakti' (Mumbai edition) in Marathi language, both circulated in Mumbai, Maharashtra not less than 30 days before the date fixed for the meeting.
10. That Mr. Yogesh Dave Authorized Signatory of the First Applicant Company, and failing him, Miss Sunita Khanna, Director of First Applicant Company, shall be the

Chairman of the aforesaid meeting of the Equity Shareholders to be held at No 70, Nagindas Master Road, Fort, Mumbai 400 023, Maharashtra, on Monday, 22 January, 2018 at 10 a.m. or any adjournment or adjournments thereof.

11. That Mr. Yogesh Dave, Authorized Signatory of the Second Applicant Company, and failing him, Miss Sunita Khanna, Authorized Signatory of Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at No.70, Nagindas Master Road, Fort, Mumbai - 400023, Maharashtra, on Monday, 22 January, 2018 at 11 a.m. or any adjournment or adjournments thereof.
12. That Mr. Yogesh Dave, Authorized Signatory of the Third Applicant Company, and failing him, Miss Sunita Khanna, Authorized Signatory of Third Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at No.70, Nagindas Master Road, Fort, Mumbai - 400001, Maharashtra, on Monday, 22 January, 2018 at 12 p.m. or any adjournment or adjournments thereof.
13. That Mr. Vijay Bohra, Company Secretary of First Applicant Company is hereby appointed as Scrutinizer for the aforesaid meetings of the Equity Shareholders of all the Applicant Companies to be held at No.70, Nagindas Master Road, Fort, Mumbai - 400023, Maharashtra, on Monday, 22 January, 2018 at their respective timings or any adjournment or adjournments thereof. The fees of the scrutinizers is fixed at Rs. 5,000/- for all the meetings.
14. That the Chairman of the respective Applicant Companies appointed for the aforesaid meetings to issue the advertisement and send out the notices of the meeting referred to above. The said Chairman of the meeting shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the

conduct of the meeting, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

15. That the quorum of the aforesaid meeting of the Equity Shareholders of the respective Applicant Companies shall be as prescribed under Section 103 of the Companies Act, 2013.
16. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorization duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Companies at their respective Registered Offices not later than 48 hours before the aforesaid meeting.
17. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books / register of the respective Applicant Companies and where the entries in the books / register are disputed, the Chairman of the Meeting of the respective Applicant Companies shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
18. That the Chairman of the respective Applicant Companies to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and to report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
19. That the Chairman of the meeting of the respective Applicant Companies to report this Tribunal, the results of the aforesaid meeting within three days of the conclusion of the meeting.

20. That the Counsel for the Applicant Companies submits that there are no Secured Creditors in the Second and Third Applicant Company but the First Applicant Company has one Secured creditor having a value of Rs. 2,71,95,06,964 as on October 31, 2017. The Counsel for the Applicants further submit that since the Scheme is an arrangement between the Applicant Companies and their respective shareholders, only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. This bench hereby directs that the First Applicant Company to issue notices to its Sole Secured Creditor and to all its unsecured Creditors having an outstanding balance of Rs. 1,00,000/- and above. This bench further directs that the Second and Third Applicant Company to issue notices to all its Unsecured Creditors as required under section 230(3) of the Companies Act 2013 by Courier / Registered Post / Speed Post / Hand Delivery or through Email with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the respective Applicant Companies.
21. That the Applicant Companies are directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority within whose jurisdiction the Applicant Companies' assessments are made (i.e. for Transferor Company, PAN-AAACT1947J- Circle 2(2)(2), Mumbai, Aaykar Bhavan, M.K. Road, Mumbai 400020; First Transferee Company, PAN AAECM6608H- Ward 3(2)(2), Mumbai, Aaykar Bhavan, M.K. Road, Mumbai 400020 and Second Transferee Company, PAN AAIECP8245R- ITO 5(2)(4), Aaykar Bhavan, M.K. Road, Mumbai 400020; (ii) the Central Government through the office of Regional Director, Western region, Mumbai; (iii) Registrar of Companies; (iv) Reserve Bank of India, Mumbai and (v) Ministry of Commerce and Industry, Department of Commerce (SEZ Section), Government of India in case of the Transferor Company with a direction that they may submit their representations, if any, within a period of thirty days from the date

of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the respective Applicant Companies, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

22. That the Applicant Companies to file affidavit of service in the Registry proving dispatch of notices upon shareholders, creditors, notices to regulatory authorities as stated in clause 20 & 21 above and publication of notice in newspapers.

Sd/-

V .Nallasenapathy, Member (T)

Date: 13.12.2017

Sd/-

B.S.V. Prakash Kumar, Member (J)