

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CSA NO. 950 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Sections 230 to 232 of the  
Companies Act 2013;

AND

In the matter of Scheme of Arrangement  
between Bellissimo Mahavir Associates  
Dwellers Private Limited having CIN  
U70109MH2017PTC299063 (Demerged  
Company) and Lodha Developers Private  
Limited having CIN  
U45200MH1995PTC093041 (Resulting  
Company) and their respective shareholders

Lodha Developers Private Limited, a Company incorporated }  
under the provisions of Companies Act, 1956 }  
having its registered office at 412, Floor 4, }  
17G Vardhaman Chamber, Cawasji Patel Road, }  
Horniman Circle, Fort, Mumbai 400001. }  
CIN U45200MH1995PTC093041 }..First Applicant Company

Bellissimo Mahavir Associates Dwellers Private Limited }  
a company incorporated under the provisions of Companies }  
Act, 2013 having its registered office at 412, Floor 4, }  
17G Vardhaman Chamber, Cawasji Patel Road, }  
Horniman Circle, Fort, Mumbai 400001. }  
CIN U70109MH2017PTC299063 }..Second Applicant Company

Order delivered on 15<sup>th</sup> day of December, 2017

Coram:

Hon'ble **M.K Shrawat**, Member (J)  
Hon'ble **Bhaskara Pantula Mohan**, Member (J)

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

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

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**ORDER**

1. The Counsel for the Applicant Companies states that the present Scheme is an Arrangement between Bellissimo Mahavir Associates Dwellers Private Limited ("Demerged Company") and Lodha Developers Private Limited ("Resulting Company") and their respective shareholders. In this Scheme of Arrangement, the Demerged Company proposes to demerge its real estate business into Resulting Company without winding up of the Demerged Company pursuant to the relevant provisions of the Act.
2. The Counsel for the Applicants further submit that the Demerged Company is engaged in the business of real estate development and construction related activities. The Resulting Company is engaged in the business of property development, sale of land and development rights and sale of construction material.
3. The demerger of the real estate business of the Demerged Company to the Resulting Company would inter alia have the following benefits:
  - Consolidation and simplification of the group structure;
  - Achieving operational and management efficiency by way of consolidation of businesses;
  - Rationalization and optimization of administrative expenses for both companies by eliminating duplication of efforts for similar line of business ie. real estate.
4. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at 412, Floor 4, 17G Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 on 25<sup>th</sup> January, 2018 at 10.00 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 Lodha Developers Private Limited, the Resulting Company and Bellissimo Mahavir Associates Dwellers Private Limited, the Demerged Company and their respective shareholders.
5. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at 412, Floor 4, 17G Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 on 25<sup>th</sup> January, 2018 at 11.00 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 Lodha Developers Private Limited, the Resulting Company and Bellissimo Mahavir Associates Dwellers Private Limited, the Demerged Company and their respective shareholders.

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6. 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 14<sup>th</sup> 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.
7. 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.
8. 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.
9. That Mr. Abhijeet Shinde, Authorised Signatory of the First Applicant Company, failing him Mr. Varun Shah, Authorised Signatory of the First Applicant Company, and failing him Mr. Mitesh Kamariya, Authorised Signatory of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the First Applicant Company to be held at its Registered office at 412, Floor 4, 17G Vardhaman Chamber,

Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 on 25<sup>th</sup> day of January, 2018 at 10.00 A.M or any adjournments thereof.

10. That Mr. Abhijeet Shinde, Authorised Signatory of the Second Applicant Company, failing him Mr. Varun Shah, Authorised Signatory of the Second Applicant Company, and failing him Mr. Mitesh Kamariya, Authorised Signatory of the Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders of the Second Applicant Company to be held at its Registered office at 412, Floor 4, 17G Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 on 25<sup>th</sup> day of January, 2018 at 11.00 A.M or any adjournments thereof.
11. That Mr. Sharatkumar Shetty, Practising Company Secretary is hereby appointed as Scrutinizer for the aforesaid meetings of the Equity Shareholders of all the Applicant Companies to be held at 412, Floor 4, 17G Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 on 25<sup>th</sup> day of January, 2018 at their respective timings or any adjournment or adjournments thereof. The fees of the scrutinizers is fixed at Rs. 6,000/- for all the meetings.
12. 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).
13. 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.
14. 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

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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.

15. 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.
16. 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.
17. That the Chairman of the meeting of the respective Applicant Companies to report this Tribunal, the results of the aforesaid meeting within thirty (30) days of the conclusion of the meeting.
18. 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 all its Secured Creditors and to its unsecured Creditors having an outstanding balance of Rs. 5,00,000/- and above. The Counsel for the Applicant submits that there are no secured creditors in the second Applicant Company therefore the question of sending notices to secured creditors does not arise. This bench further directs that the Second 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.

19. 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 Resulting Company, PAN : AAACL1490J, Deputy Commissioner, Ward : DCIT Central Circle – 7(3), Aayakar Bhavan, Mumbai – 400020 ; and Demerged Company, PAN AAHCB4262F, Range Code- 211, Ward 25(2)(2), C-10 Bandra, Mumbai 400051) (ii) the Central Government through the office of Regional Director, Western region, Mumbai, (iii) the Registrar of Companies, Mumbai and (iv) Real Estate Regulatory Authority under the Real Estate (Regulation and Development) Act, 2016 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.

20. 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 19 above and publication of notice in newspapers.

Sd/-

**BHASKARA PANTULA MOHAN  
MEMBER (JUDICIAL)**

**Dated : 15.12.2017**

Sd/-

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