

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

**COMPANY SCHEME APPLICATION NO. 66 OF 2017
(HIGH COURT TRANSFERRED APPLICATION)**

In the matter of the Companies Act, 2013
(18 of 2013);

And

In the matter of Sections 230 to 232 of the
Companies Act, 2013 and other relevant
provisions of the Companies Act, 2013
along with the Companies Act, 1956.

And

In the matter of Sections 391 to 394 of the
Companies Act, 1956 and other relevant
provisions of the Companies Act, 2013;

And

In the matter of Scheme of Amalgamation
of Bandra Properties Private Limited
(‘BPPL’ or ‘the Transferor Company 1’)
and Bandra Construction Private Limited
(‘BCPL’ or ‘the Transferor Company 2’)
with Sunder Bhawar Holiday Homes
Private Limited (Formerly known as ‘Sheth
Landmarks Private Limited’) (‘SBHPL’ or
‘the Transferee Company’)

**BANDRA PROPERTIES PRIVATE)
LIMITED, a company incorporated)
under the Companies Act, 1956 having)
its Registered Office at 601, 6th Floor,)
Shri Shyam Sadan JVPD Scheme, 7th)
Road, Vileparle (West) Mumbai-)
400056.) ...Applicant Company.**

Called for Notice of Admission:

Mrs. Alpana Ghone, Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co., Advocates for the Applicant.

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J) and SH. V .Nallasenapathy Hon'ble Member (T)

Date: 9th February, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company High Court Transferred Application **AND UPON HEARING** Mr. Mr. Rajesh Shah with Mr. Ahmed M Chunawala i/b M/s. Rajesh Shah & Co, Advocates for the Applicant Company, **AND UPON READING** the Affidavit dated 6th day of December, 2016 of Mr. Vishal Gupta, Authorised Signatory of the Applicant Company, in support of High Court Transferred Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at 601, 6th Floor, Shri Shyam Sadan JVPD Scheme, 7th Road, Vileparle (West) Mumbai- 400056 on Thursday, 15th March 2017 at 10.00 a.m. for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of Bandra Properties Private Limited ('BPPL' or 'the Transferor Company 1') and Bandra Construction Private Limited ('BCPL' or 'the Transferor Company 2') with Sunder Bhawar Holiday Homes Private Limited (Formerly known as 'Sheth Landmarks Private Limited') ('SBHPL' or 'the Transferee Company').
2. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity

Shareholders of the Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company.

3. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Amalgamation and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid.
4. The Applicant Company undertakes to:
 - i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
 - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
 - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and

The undertaking is accepted.

5. That Ms. Harshita Jain, Director of the Applicant Company shall be the Chairperson of the meetings of Equity Shareholders and failing her, Mrs. Madhu Jain, Director of the Applicant Company shall be the alternate Chairperson of the said meetings.
6. The Chairperson appointed for the aforesaid Equity Shareholders Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), 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).

7. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
8. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at 601, 6th Floor, Shri Shyam Sadan JVPD Scheme, 7th Road, Vileparle (West) Mumbai- 400056, not later than, 48 hours before the aforesaid Equity Shareholders meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. The value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
10. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within three days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
12. That the question of convening and holding of the meeting of Secured Creditors does not arise since there are no Secured Creditors of the Applicant Company as stated in paragraph 11 of the Affidavit in support of Summons for Direction.

13. That Counsel for the Applicant submits that since the scheme is an arrangement between the Applicant Company 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 the Applicant Company to issue notice to its Unsecured creditors as required under section 230 (3) of the Companies Act, 2013 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 Applicant Company.
14. The Applicant to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. The Applicant to serve the notice upon the Official Liquidator, High Court, Bombay pursuant to Section 230(5) of the Companies Act, 2013. The Tribunal is appointing Chartered Accountant, M/s USM & Associates with remuneration of Rs. 10,000/- for the services. If no response is received by the Tribunal from Official Liquidator within thirty days of the date of receipt of the notice, it will be presumed that Official Liquidator has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. The Applicant to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of

receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

17. The Applicant to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
18. The Applicant to file an affidavit of service of the notices issued to Unsecured Creditors not less than seven days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

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

Sd/-

V. Nallasenapathy Member (T)