

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
COMPANY SCHEME APPLICATION NO. 498 OF 2017**

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 Scheme of Arrangement between Kanakia Residential Private Limited ('Demerged Company' or 'First Applicant Company') and Kanakia Spaces Realty Private Limited ('Resulting Company' or 'Second Applicant Company')

And

Their Respective Shareholders

**KANAKIA RESIDENTIAL )  
PRIVATE LIMITED, a company )  
incorporated under the Companies Act, )  
1956 having its Registered Office at )  
215-Atrium, 10<sup>th</sup> Floor, Opp. Divine )  
School, Andheri Kurla Road, Andheri )  
(East), Mumbai – 400059, Maharashtra )  
CIN.NO: U45400MH2010PTC207453 ) ...First Applicant Company.**

**KANAKIA SPACES REALTY  
PRIVATE LIMITED**, a company  
incorporated under the Companies Act, )  
1956 having its Registered Office at )  
215-Atrium, 10<sup>th</sup> Floor, Opp. Divine )  
School, Andheri Kurla Road, Andheri )  
(East), Mumbai – 400059, Maharashtra )  
CIN.NO: U45201MH2004PTC146948 )  
)

)..Second Applicant Company.

Mr. Hemant Sethi i/b M/s. Hemant Sethi & Co., Advocates for the First Applicant  
Company and the Second Applicant Company.

**Coram: B.S.V. Prakash Kumar, Member (Judicial)**

**V. Nallasenapathy, Member (Technical)**

**Date: 27<sup>th</sup> April, 2017**

**MINUTES OF THE ORDER**

1. The Counsel for the Applicant Companies states that the present Scheme is a Scheme of Arrangement between Kanakia Residential Private Limited ('Demerged Company' or 'First Applicant Company') and Kanakia Spaces Realty Private Limited ('Resulting Company' or 'Second Applicant Company').
2. The Counsel for the Applicant Companies further submit that the proposed Scheme would benefit the respective Applicant Companies and other stakeholders of the respective Applicant Companies on account of the following reasons:
  - a. Consolidation of companies within the Group;
  - b. Reduction of intra-group transactions and compliance requirements under various laws;
  - c. Reduction of operating and compliance costs; and
  - d. Achieve administrative, operational and management efficiencies.

3. That the meeting of the Equity Shareholders of the First Applicant Company be convened and held at 215-Atrium, 10th Floor, Opp. Divine School, Andheri Kurla Road, Andheri (East), Mumbai – 400059, Maharashtra, on Friday, 9<sup>th</sup> day of June, 2017 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 First Applicant Company and Second Applicant Company and their respective shareholders.
4. That the meeting of the Equity Shareholders of the Second Applicant Company be convened and held at 215-Atrium, 10th Floor, Opp. Divine School, Andheri Kurla Road, Andheri (East), Mumbai – 400059, Maharashtra, on Friday, 9<sup>th</sup> day of June, 2017 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 First Applicant Company and Second Applicant Company and their respective shareholders.
5. That the meeting of the Preference Shareholders of the Second Applicant Company be convened and held at 215-Atrium, 10th Floor, Opp. Divine School, Andheri Kurla Road, Andheri (East), Mumbai – 400059, Maharashtra, on Friday, 9<sup>th</sup> day of June, 2017 at 12.00 noon 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 First Applicant Company and Second Applicant Company and their respective shareholders.
6. At least 30 clear days before the said meeting of the Equity Shareholders of the First Applicant Company and Equity Shareholders and Preference Shareholders of the Second Applicant Company to be held 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) Rule, 2016 notified on 14th December 2016 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 First Applicant

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

7. At least 30 clear days before the said meeting of the Equity Shareholders of the First Applicant Company and Equity Shareholders and Preference Shareholders of the Second Applicant Company to be held as aforesaid, a notice convening the said meeting, indicating the place, date and time of meeting as aforesaid be published and stating that 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) Rule, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the First Applicant Company and Second Applicant Company as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.
8. That the Notice of the aforesaid meetings shall be advertised in two local newspapers viz. 'Free Press Journal' in English and 'Navshakti' in Marathi, both circulated in Mumbai not less 30 days before the date fixed for the meeting.
9. That Mr. Jitendra Mehta, Authorised Signatory of the First Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing him, Mr. Jatin Shah, Authorised Signatory of the First Applicant Company shall be the alternate Chairperson of the said meeting and failing him, Ms. Rashmi Shah, Authorised Signatory of the First Applicant Company shall be the alternate Chairperson of the said meeting of Equity Shareholders to be held at 10.00 am. or any adjournment or adjournments thereof.
10. That Mr. Jitendra Mehta, Authorised Signatory of the Second Applicant Company shall be the Chairperson of the meeting of Equity Shareholders and failing him, Mr. Jatin Shah, Authorised Signatory of the Second Applicant Company shall be the alternate Chairperson of the said meeting and failing him,

Ms. Rashmi Shah, Company Secretary of the Second Applicant Company shall be the alternate Chairperson of the said meeting of Equity Shareholders to be held at 11.00 a.m. or any adjournment or adjournments thereof.

11. That Mr. Jitendra Mehta, Authorised Signatory of the Second Applicant Company shall be the Chairperson of the meeting of Preference Shareholders and failing him, Mr. Jatin Shah, Authorised Signatory of the Second Applicant Company shall be the alternate Chairperson of the said meeting and failing him, Ms. Rashmi Shah, Company Secretary of the Second Applicant Company shall be the alternate Chairperson of the said meeting of Preference Shareholders to be held at 12 noon or any adjournment or adjournments thereof.

12. That Mr. Rakesh Sanghani, of M/s. Rakesh Sanghani & Co., Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the First Applicant Company be convened and held at 215-Atrium, 10th Floor, Opp. Divine School, Andheri Kurla Road, Andheri (East), Mumbai – 400059, Maharashtra, on Friday, 9<sup>th</sup> day of June, 2017 at 10.00 a.m. or any adjournment or adjournments thereof and his remuneration is fixed as Rs.5,000/-

13. That Mr. Rakesh Sanghani, of M/s. Rakesh Sanghani & Co., Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders and Preference Shareholders of the Second Applicant Company be convened and held at 215-Atrium, 10th Floor, Opp. Divine School, Andheri Kurla Road, Andheri (East), Mumbai – 400059, Maharashtra, on Friday, 9<sup>th</sup> day of June, 2017 at 11.00 am. and 12.00 noon respectively, or any adjournment or adjournments thereof and his remuneration is fixed as Rs.10,000/-

14. That the Chairman appointed for the respective aforesaid meetings to issue the advertisement and send out the notices of the meetings referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any

- adjournment thereof or resolution, if any, proposed at the meetings by any person(s).
15. The quorum for the respective aforesaid meetings of the Equity Shareholders and Preference Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
  16. 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, are filed with the First Applicant Company and Second Applicant Company at their respective Registered Offices, not later than, 48 hours before the aforesaid Equity Shareholders meeting and Preference Shareholders meeting.
  17. The value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the First 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 of the Equity Shareholders of the First Applicant Company and his decision in that behalf would be final.
  18. The value and number of the shares of each Equity Shareholder and Preference Shareholder shall be in accordance with the books/ register of the Second 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 of the Equity Shareholders and the Preference Shareholders of the Second Applicant Company and his decision in that behalf would be final.
  19. The Chairperson of the respective Applicant Company to file an affidavit not less than seven days before the date fixed for the holding of the meetings and to report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.

20. The Chairperson of the respective Applicant Company to report to this Tribunal, the result of the aforesaid meetings within thirty days of the conclusion of the respective meetings.
21. That the First Applicant Company is directed to serve notices along with copy of the Scheme upon:-
- (i) concerned Income Tax Authority within whose jurisdiction the First Applicant Company's assessments are made;
  - (ii) the Central Government through the office of Regional Director, Western region, Mumbai; and
  - (iii) Registrar of Companies, Mumbai with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice with the Tribunal with copy of such representations simultaneously served upon the First Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Scheme.
22. That the Second Applicant Company is directed to serve notices along with copy of the Scheme upon:-
- (i) concerned Income Tax Authority within whose jurisdiction the Second Applicant Company's assessments are made;
  - (ii) the Central Government through the office of Regional Director, Western region, Mumbai; and
  - (iii) Registrar of Companies, Mumbai with an intimation that they may, if they so wish, submit their representations, if any, within a period of thirty days from the date of receipt of such notice with the Tribunal with copy of such representations simultaneously served upon the Second Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposed arrangement embodied in the Scheme.
23. The Chairperson appointed, respectively for the aforesaid Equity Shareholders and Preference Shareholders meetings to issue the notice of the meetings 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.

24. That Counsel for the Applicant Companies submits that since the Scheme is an Arrangement between the Applicant Companies and their respective shareholders, only a meeting of the Equity Shareholders of the First Applicant Company and only a meeting of the Equity Shareholders and Preference Shareholders of the Second Applicant Company 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 First Applicant Company and the Second Applicant Company to issue notice to all its Secured Creditors and 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 respective Applicant Company.

25. That the First Applicant Company and Second Applicant Company are directed to file affidavit of service in the Registry proving dispatch of notices upon shareholders, Creditors, publication of notices in newspapers and to all Regulatory authorities as stated in above clause and to report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**V. Nallasenapathy, Member (T)**

Sd/-

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