

## BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

## MUMBAI BENCH

## COMPANY SCHEME APPLICATION NO 353 OF 2017

In the matter of the Companies Act, 2013;

AND

In the matter of Scheme of Arrangement ('Scheme') between Bellissimo Properties Development Private Limited (Formerly known as Lodha Properties Development Private Limited) ('Demerged Company') and Lodha Developers Private Limited ('Resulting Company') and their respective shareholders

AND

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

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	}.....Applicant Company

**Called for hearing:**

Mr. Hemant Sethi i/b Hemant Sethi &amp; Co., Advocates for the Applicant Company

**Coram: M.K. Shrawat, Member (Judicial)****V. Nallasenapathy, Member (Technical)****Dated: 12<sup>th</sup> day of April 2017****MINUTES OF THE ORDER**

1. The Counsel for the Applicants states that the Scheme of Arrangement provides for the demerger of the Demerged Undertaking of Bellissimo Properties Development Private Limited ('Demerged Company') to Lodha Developers Private Limited ('Resulting Company') pursuant to the relevant provisions of the Act.
2. The Counsel for the Applicant further submits that the Applicant Company is currently engaged in the business of property development, sale of land and development rights and sale of construction material.



3. The Counsel for the Applicant further submit that rationale for Scheme is that the Demerged Company and the Resulting Company are engaged in similar line of business and both belong to the Lodha Group. Therefore, this Scheme of Arrangement will achieve the following primary 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. A meeting of the Equity Shareholders of the Applicant Company, be convened and held at 10<sup>th</sup> Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai – 400 011 on 23<sup>rd</sup> day of May, 2017 at 1.00 p.m. for the purpose of considering and if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between Bellissimo Properties Development Private Limited, the Demerged Company and Lodha Developers Private Limited, the Resulting Company and their respective shareholders.
5. The Applicant Company shall also give an option to its equity shareholders to vote through Postal Ballot.
6. That at least one month before the said Meeting of the Equity shareholders of the 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 14<sup>th</sup> December 2016 and the prescribed Form of Proxy, shall be sent by Courier / Registered Post, Speed Post or through Email (to those equity shareholders whose email addresses are duly registered with the Applicant Company for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the Company, at their last known address or email addresses as per the records of the Applicant Company.
7. That at least one month before the meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, notice convening the said Meeting, indicating the place, date and time of meeting as aforesaid be published and 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) Rule, 2016 and the Form of Proxy shall be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and / or at the offices of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur Mumbai – 400071.



8. That Mr. Nilesh Rawat, Authorised Representative of the Applicant Company, failing him Mr. Vishal Ghadigaonkar, Authorised Representative of the Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at 10<sup>th</sup> Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai – 400 011 on 23<sup>rd</sup> day of May, 2017 at 1.00 p.m. or any adjournments thereof.
9. That Mr. Sharatkumar Shetty, Practising Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company to be held at 10<sup>th</sup> Floor, Lodha Excelus, Apollo Mills Compound, N. M. Joshi Marg, Mahalaxmi, Mumbai – 400 011 on 23<sup>rd</sup> day of May, 2017 at 1.00 p.m. or any adjournments thereof and his remuneration is fixed at Rs. 3,000/-.
10. That the Notice of the aforesaid Meeting of the Equity Shareholders shall be advertised in two local newspapers viz. “Free Press Journal” in English and “Navshakti” in Marathi, both circulated in Mumbai not less than thirty (30) days before the date fixed for the meeting.
11. That the Chairman appointed for the aforesaid Meeting to issue the advertisements and send out the notice of the Meeting referred to above. The said Chairman shall have all the powers as per the 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.
12. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
13. The value and number of the Equity shares of each member shall be in accordance with the books/ register of the Applicant Company and where the entries in the books/ register are disputed, the Chairman of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
14. That voting by proxy or authorized 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 412, Floor 4, 17G Vardhaman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai 400001 not later than 48 hours before the aforesaid meeting.
15. That the Chairman of the Meeting to file an affidavit not less than seven (7) days before the date fixed for the holding of the Meeting and do report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. That the Chairman of the Meeting to report to this Tribunal, the results of the aforesaid meeting within thirty (30) days of the conclusion of the Meeting.



17. The Counsel for the Applicants submit 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 Secured 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. This bench hereby further directs the Applicant Company to issue notice to Unsecured creditors having outstanding balance in excess of Rs. 5,00,000/- 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.
18. That the Applicant Company is directed to serve notices along with copy of Scheme upon:- (i) concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessments are made, (ii) the Central Government through the office of Regional Director, Western region, Mumbai, (iii) the Registrar of Companies, Mumbai with the direction that they may submit their representations, if any, within a period of thirty (30) days from the date of the receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.
19. Applicant Company to file affidavit of service in the Registry proving dispatch of notices upon shareholders, Creditors, notices to Regulatory authorities as stated in Clause 18 above and publication of notice in newspapers.

Sd/-  
V. Nallasenapathy, Member (T)

Sd/- 12/4/17  
M. K. Shrawat, Member (J)