

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 23.03.2017

Order passed on 03.04.2017

C.P.No.11 of 2017

(Under Second Proviso to Sec.14(1)(b) of the Companies Act, 2013)

Petitioner : M/s. The Savamalai Estates Ltd.

Represented by : PCS Mr.M.D.Selvaraj

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ANANTHA PADMANABHA SWAMY & CH MOHD SHARIEF TARIQ, MEMBERS (JUDICIAL)

ORDER

ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL) : (ORAL)

1. The above Company Petition came to be filed on 28.11.2016 under Second proviso to Section 14 (1)(b) of the Companies Act, 2013 by the Applicant company for conversion of its status from that of public company into private company.
2. The Petitioner is an unlisted public company incorporated on 22.06.1931 under the Companies Act, 1956 having CIN: U70101TZ1931PLC002124 with its registered office at No.No.3, Simon Layout, Annamalai Chettiar Road, Coimbatore-641011.
3. The company is having an authorised capital of Rs.20 lakhs divided into 2,00,000 equity shares of Rs.10/-. The paid up share capital is Rs.15,47,360/- divided into 1,54,736 shares of Rs.10/- each. The objects of the company have been specified in the Memorandum of Association placed at Annexure A04.

4. It has been stated that the Board of Directors held a meeting on 27.08.2016 and decided that in order to streamline the functioning and affairs of the management, the company be converted from public limited to private limited. Therefore, an EoGM for the said purpose was held on 30.09.2016. Notices for conducting EGM have been served to 86 members by ordinary post and to 12 members by Speed post. Out of 12 members who received notices by speed post, only 8 members have participated in the EGM held on 30.09.2016 in which all the 8 members have approved for conversion of the company into private limited and further resolved that consequent upon the conversion, the name of the company be changed from "The Savamalai Estates Limited" to "The Savamalai Estates Private Limited".

5. During the course of hearing, this Tribunal directed the learned PCS representing the company, vide order dated 27.02.2017, to send notices once again to all the shareholders detailing the present petition by speed post with acknowledgement due and to file an affidavit showing proof of sending and serving notices to all the 98 shareholders. As directed, Mr.Periakaruppan, Managing Director of the company has filed an affidavit showing that notices to all the 98 shareholders have been sent by speed post. The acknowledgement/delivery status of speed post filed by him shows that notices sent to 82 persons have been delivered and notices sent to 16 persons have been returned unserved. Hence this Tribunal is

satisfied that due notices have been effected on the shareholders of the company.

6. In this regard, all the requisite documents were filed before the Registrar of Companies concerned, including Form MGT-14 on 25.10.2016. There is only one Secured Creditor Viz. Indian Overseas Bank which has given No Objection Certificate dated 24.02.2017 for conversion of the company from Public to private. The list of creditors is stated to be available for inspection at the registered office of the company. Mr.PR.Rathnam, Managing Director and Mr.PR.Kumarappan, Director of the Company have certified the correctness of the said list of creditors by way of an affidavit which is placed at Annexure-A10. The publication of notice in newspapers has also been effected one in vernacular viz. 'Malai Murasu' dated 21.01.2017 and the other in English viz. 'Business Standard' dated 23.01.2017 which are placed in the Affidavit as Annexure-1.

7. Having heard the Learned PCS and having perused the entire record, it is observed that no objection has been received from any person after the publication of the notice in the newspapers.

8. As per the report of the Registrar of Companies concerned dated 17.02.2017 it has been stated that the ROC does not have any objection if this application is decided on merits. The special resolution passed at EoGM on 30.09.2016 also provides for amending the Articles of Association to align with the provisions of the Companies Act, 2013.

Therefore, it appear that the Applicant company has fulfilled all the requirements as per law, for the proposed conversion.

9. In the light of the above, the petition is allowed permitting conversion from public limited to private limited which is in the interest of the company with a view to comply efficiently with the provisions of Companies Act 2013 and the same is not likely to cause any prejudice either to the members or the creditors of the company. Accordingly, the petition is disposed of, with a direction to give effect to the conversion of the Company from public to private by bringing alteration in the Articles of Association and a copy of this order along with printed copy of the Articles of Association be filed with the Registrar of Companies concerned, within a period of 15 days from today in the manner as prescribed for registration of the Company and change of the name of the Company as prayed for in the petition.


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)


ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)