

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 159/2015

Reserved on 28th October, 2015

Date of pronouncement: 6th November, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Application under Sections 391 to 394 of the
Companies Act, 1956 read with Rules 6 & 9 of
the Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Elite Townships Private Limited

Applicant/Demerged company

AND

Proud Buildwell Private Limited

Applicant/Resulting Company No. 1

Wisdom Infrahome Private Limited

Applicant/Resulting Company No. 2

**Through Ms. Yukti Gupta, Advocate for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, preference shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Arrangement between Elite Townships Private

Limited (hereinafter referred to as the demerged company) and Proud Buildwell Private Limited (hereinafter referred to as the resulting company no. 1) and Wisdom Infrahome Private Limited (hereinafter referred to as the resulting company no. 2).

2. The registered offices of the demerged and resulting companies are situated at New Delhi, within the jurisdiction of this Court.

3. The demerged company was incorporated under the Companies Act, 1956 on 29th December, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The resulting company no. 1 was incorporated under the Companies Act, 1956 on 9th October, 2013 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The resulting company no. 2 was incorporated under the Companies Act, 1956 on 8th October, 2013 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the demerged company is Rs.78,00,00,000/- divided into 5,30,00,000 equity shares of Rs.10/- each aggregating to Rs.53,00,00,000/- and 2,50,00,000 1% non-cumulative

redeemable preference shares of Rs.10/- each aggregating to Rs.25,00,00,000/-. The issued, subscribed and paid up capital of the company is Rs.75,00,48,620/- divided into 5,07,36,112 equity shares of Rs.10/- each aggregating to Rs.50,73,61,120/- and 2,42,68,750 1% non-cumulative redeemable preference shares of Rs.10/- each aggregating to Rs.24,26,87,500/-.

7. The present authorized share capital of the resulting company no.1 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

8. The present authorized share capital of the resulting company no.2 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

9. Copies of the Memorandum and Articles of Association of the demerged and resulting companies have been filed on record. The audited balance sheets, as on 31st March, 2014, of the demerged and resulting companies, along with the report of the auditors, have also been filed.

10. A copy of the Scheme of Arrangement has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavits. It is submitted by the applicants that the Scheme, *inter alia*, provides for transfer of the Vacation Homes and Resorts Project Undertaking of the demerged company into resulting company no. 1 and the transfer of Resorts and Villas Project Undertaking of the demerged company into the resulting company no. 2. It is claimed that the proposed demerger will provide as a measure of corporate restructuring and to provide potential for further growth and diversification to have better synergy and optimization of resources as well as to facilitate fund raising and development of each business in the respective companies. It is further claimed that the proposed demerger will enable a better and more efficient management, control and running of each of the business verticals under a separate corporate umbrella.

11. So far as the share exchange ratio is concerned, the Scheme provides that upon coming into effect of this Scheme, the resulting companies shall issue and allot shares to the shareholders of the demerged company in the following ratio:-

“38 equity shares of Rs.10/- each of the resulting company no.1, credited as fully paid up, for every 100 equity shares of Rs.10/- each held in the demerged company.”

“32 equity shares of Rs.10/- each of the resulting company no.2, credited as fully paid up, for every 100 equity shares of Rs.10/- each held in the demerged company.”

12. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and Sections 201 to 227 of the Companies Act, 2013 are pending against the applicant companies.

13. The Board of Directors of the demerged and resulting companies in their separate meetings held on 8th June, 2015 have unanimously approved the proposed Scheme of Arrangement. Copies of the Resolutions passed at the meetings of the Board of Directors of the demerged and resulting companies have been placed on record.

14. The demerged company has 02 equity shareholders, 01 preference shareholder and 38 unsecured creditors. Both the equity shareholders, the sole preference shareholder and 31 out of 38 unsecured creditors, being 81.58% in number and 99.84% in value, have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders, preference shareholder and unsecured creditors of the demerged

company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured creditor of the demerged company, as on 31st May, 2015.

15. The resulting company no. 1 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the resulting company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured or unsecured creditor of the resulting company no. 1, as on 31st May, 2015.

16. The resulting company no. 2 has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the resulting company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme

of Arrangement is dispensed with. There is no secured or unsecured creditor of the resulting company no. 2, as on 31st May, 2015.

17. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

November 06, 2015