

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SUMMONS FOR DIRECTION NO. 390 OF 2015

In the matter of the Companies Act, 1956
(1 of 1956);

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956;

AND

In the matter of Scheme of
Amalgamation of Top Investments
And Finance Private Limited with Tolani
Shipping Company Limited

Top Investments And Finance Private Limited, a Company	}
incorporated Under the provisions of Companies Act, 1956	}
Having its Registered Office at 10-A, Bakhtawar, Nariman Point,	}
Mumbai-400021.	}
.....Applicant Company	

Called Summons for Directions for hearing

Mr. Hemant Sethi, i/b. Hemant Sethi & Co., for Applicant

Coram: S. J. Katahwalla, J.

Date: 8th May 2015

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company Summons for Directions AND UPON HEARING Mr. Hemant Sethi instructed by M/S Hemant Sethi & Co., Advocates for the Applicant Company, AND UPON READING the Affidavit dated 30th day of March, 2015 of Ms. Seeta Venkatraman, Authorised Signatory of the Applicant Company, in support of Summons for Directions and the Exhibits therein referred to, IT IS ORDERED THAT:

1. The convening and holding the meeting of the Equity Shareholders of the Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Amalgamation of Top Investments And Finance Private Limited with Tolani Shipping Company Limited is dispensed with in view of the consent given by both Equity Shareholders of the Applicant Company, which are annexed as Exhibits **“H-1”** and **“H-2”** to the Affidavit in support of the Summons for Direction.
2. That the question of convening and holding of the meeting of the Secured Creditors of the Applicant Company does not arise since, there are no Secured Creditors in the Applicant Company as stated in paragraph 19 of the Affidavit in support of the Company Summons for Direction.
3. The convening and holding the meeting of the Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Amalgamation of Top Investments And Finance Private Limited with Tolani Shipping Company Limited is dispensed with in view of averments made in paragraph 20 of the Affidavit in support of Company Summons for Direction, inter-alia stating that the present Scheme is an Arrangement between the Applicant Company and its shareholders as contemplated under Section 391(1)(b) and not in accordance with the provisions of Section 391(1)(a) of the Companies Act, 1956 as there is no Compromise and/or Arrangement with the Creditors as no sacrifice is called for and in terms of the proposed Scheme, the Transferee Company will take over all

the assets and liabilities of the Applicant Company and that the Applicant Company undertakes to issue individual notice of the date of hearing of Company Scheme Petition to all its Unsecured Creditors and also publish the same in two local newspapers, namely 'Free Press Journal' in English language and translation thereof in 'Navshakti' in Marathi Language both having circulation in Mumbai. The said undertaking is accepted.

4. The Applicant Company is wholly owned subsidiary of the Transferee Company and there is no re-organization of share capital of the Transferee Company and no new shares are being issued by the Transferee Company as all shares will be cancelled as per Clause 13 of the Scheme and rights of creditors of Transferee Company are not affected as mention in paragraphs 21 to 23 of the Affidavit in support of Summons for Direction and also in view of observations made by this court in Mahaamba Investment Ltd verses IDI Limited (2001) 105 Co cases page 16 to 18, the filing of separate Company Summons for Direction and Company Scheme Petition under Section 391 and 394 of the Companies Act, 1956 by Tolani Shipping Company Limited, the Transferee Company is dispensed with.

(S. J. Kathawalla, J.)