

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SUMMONS FOR DIRECTION NO 344 OF 2015

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

AND

In the matter of Section 391 to 394 read with
Sections 100 to 103 and other relevant provisions of
the Companies Act, 1956 and the Companies Act,
2013

AND

In the matter of Scheme of Arrangement between
ESS GEE Realty Private Limited and Prime Hygiene
Care Private Limited and their respective
shareholders

Prime Hygiene Care Private Limited,	}	
a Company incorporated under the provisions of	}	
Companies Act, 1956 having its registered office	}	
at 51 / 54B, Nariman Bhavan,	}	
5th Floor, Backbay Reclamation Road,	}	
Nariman Point, Mumbai - 400 021	}	Applicant Company

Called Summons for Direction for Hearing

Mr. Hemant Sethi with Mr. Ajit Singh Tawar i/b. Hemant Sethi & Co., Advocates
for the Applicant Company

Coram: S.J. Kathawalla, J.

Date: 24th April, 2015

MINUTES OF THE ORDER

UPON the Application of the Applicant Company above named by a Company
Summons for Direction **AND UPON HEARING** Mr. Hemant Sethi instructed by
Hemant Sethi & Co., Advocates for the Applicant Company, **AND UPON**

READING the Affidavit dated 6th day of April, 2015 of Ms. Bina Shah, Director of the Applicant Company, in support of Company Summons for Direction, and the Exhibits there in 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 Scheme of Arrangement between ESS GEE Realty Private Limited and Prime Hygiene Care Private Limited and their respective shareholders, is dispensed with in view of the consent given by all the six Equity Shareholders of the Applicant Company, which are annexed as Exhibits “I-1” to “I-6” to the Affidavit in support of the Company Summons for Directions.
2. The question of convening and holding the meeting of the Secured Creditors of the Applicant Company does not arise as there are no Secured Creditors in the Applicant Company as stated in paragraph 12 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 Scheme of Arrangement between ESS GEE Realty Private Limited and Prime Hygiene Private Limited and their respective shareholders, is dispensed with, in view of averments made in paragraph 13 of the Affidavit in support of the Company Summons for Directions, inter-alia stating that the proposed Scheme of Amalgamation and Arrangement 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 creditor 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 the Company Scheme Petition to all its Unsecured Creditors by RPAD 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. Learned Counsel for the Applicant Company states that pursuant to Clause 4.1 of the Scheme, the reduction of existing issued, subscribed and paid up equity share capital of the Applicant Company will be effected as an integral part of the Scheme and that there is no diminution of liability in respect of unpaid share capital or payment to any shareholder of any paid up share capital and the Scheme does not envisage any compromise or arrangement with any of the creditors of the Applicant Company as per averments made in paragraphs 14 and 15 of the Affidavit in support of Company Summons for Direction and the Applicant Company undertakes to pass Special Resolution as required under Section 100 of the Companies Act, 1956 and will annex copy of the same with the Company Scheme Petition. In view of the above the

procedure prescribed under section 101(2) of the Companies Act, 1956 is dispensed with.

(S.J. KATHAWALLA, J)