

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SUMMONS FOR DIRECTION NO 801 OF 2015

In the matter of the Companies Act,
1956 (1 of 1956) and other relevant
provisions of Companies Act, 2013;

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956 and other
relevant provisions of the Companies
Act, 2013;

AND

In the matter of Scheme of
Arrangement between EMCO Limited
(‘the Transferor Company’)

AND

EMCO Infrastructure Limited (‘the
Transferee Company’)

AND

Their Respective Shareholders and
Creditors

EMCO LIMITED, a company)
incorporated under the Act and)
having its registered office address)
at N – 104, MIDC Area, Mehrun,)
Jalgaon – 425 003, Maharashtra,)
India).....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.

Coram: S.C. Gupte, J.

Date: 16th October 2015

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Summons
for Directions **AND UPON HEARING** Mr. Hemant Sethi instructed by Hemant

Sethi & Co., Advocates for the Applicant Company, **AND UPON READING** the Affidavit dated 21st day of September, 2015 of [Mr. Ganesh Tawari, Company Secretary, of the Applicant Company, in support of Summons for Directions and the Exhibits therein referred to, **IT IS ORDERED:**

1. THAT a meeting of the Equity Shareholders of EMCO Limited, the Applicant Company, be convened and held at the registered office of the company at N – 104, MIDC Area, Mehrun, Jalgaon – 425 003, Maharashtra, India on Tuesday, 17th day of November, 2015 at 12.00 noon, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement between EMCO Limited and EMCO Infrastructure Limited and their respective shareholders and creditors.
2. THAT at least 21 clear days before the meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement and the statement required to be furnished pursuant to Section 393 of the Companies Act, 1956 ('the Act') and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and/or at the office of its Advocates, shall be published once each in 'Lokmat Times' in English and translation thereof in 'Lokmat' in Marathi, both circulated at Jalgaon.
3. Publication of Notice of Meeting of the Equity Shareholders in the Government Gazette is dispensed with.
4. THAT the settling and approving of the form of advertisement, form of proxy, the form of notice, the Statement required to be furnished pursuant to Section 393 of the Act to accompany the notice, by the Company Registrar of this Court is dispensed with. The Applicant Company undertakes to:
 - i. issue Notice convening meeting of the equity shareholders as per

Form No. 36 (Rule 73)

- ii. issue Statement containing all the particulars as per Section 393 of the Companies Act, 1956;
- iii. issue Form of Proxy as per Form No. 37 (Rule 73) and
- iv. advertise the Notice convening meeting as per Form No. 38 (Rule 74)

The undertaking is accepted.

5. THAT Mr. Shailesh S. Jain, Director of the Applicant Company, and failing him, Mr. Rajesh S. Jain, Chairman of the Applicant Company, and failing him, Mr. Amit Sudhakar, Chief Financial Officer of the Applicant Company, shall be the Chairman of the aforesaid Meeting to be held at the registered office of the company at N – 104, MIDC Area, Mehrun, Jalgaon, Maharashtra – 425 003, Maharashtra, India on Tuesday, 17th day of November, 2015 at 12.00 noon or any adjournment or adjournments thereof.
6. THAT the Chairman appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairman shall have all powers under the Companies (Court) Rules, 1959 (or any re-enactment thereof upon effectiveness of Companies Act, 2013) in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
7. THAT the quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
8. THAT voting by proxy or authorised 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 N – 104, MIDC Area, Mehrun, Jalgaon, Maharashtra – 425 003, Maharashtra, India, not later than, 48 hours before the aforesaid meeting as required under rule 70 of Companies (Court) Rules, 1959.

9. THAT the value and number of the shares of each member shall be in accordance with the books/ register of the Applicant Company or depository records and where the entries in the books/ register / depository records 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.
10. THAT the Chairman to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Court that the direction regarding the issue of notices and the advertisement have been duly complied with.
11. THAT the Chairman to report to this Court, the result of the aforesaid meetings within 30 days of the conclusion of the meetings, and the said report shall be verified by his Affidavit.
12. THAT convening and holding of the meeting of the Secured Creditors of the Applicant Company, to consider and, if thought fit, approve, with or without modification(s), the proposed Scheme of Arrangement between EMCO Limited and EMCO Infrastructure Limited and their respective shareholders and creditors is dispensed with in view of the averment made in paragraph 13 of the affidavit in support of the Summons for Directions, inter-alia stating that as far as rights of Secured creditors are concerned, they will not be affected by the proposed Scheme of Arrangement as the assets of the Transferee company post the Scheme of Arrangement will be far more than its liabilities and as such sufficient to discharge the liabilities

and that the Applicant Company undertakes to issue individual notice of the hearing of the Petition by Registered Post A.D. to all its Secured Creditors and undertakes to publish the same in one issue each of a daily newspaper viz. 'Lokmat Times' in English and translation thereof in 'Lokmat' in Marathi, both circulated at Jalgaon. The undertaking is accepted.

13. THAT convening and holding of the meeting of the Unsecured Creditors of the Applicant Company, to consider and, if thought fit, approve, with or without modification(s), the proposed Scheme of Arrangement between EMCO Limited and EMCO Infrastructure Limited and their respective shareholders and creditors is dispensed with in view of the averment made in paragraph 14 of the affidavit in support of the Summons for Directions, inter-alia stating that as far as rights of Secured creditors are concerned, they will not be affected by the proposed Scheme of Arrangement as the assets of the Transferee company post the Scheme of Arrangement will be far more than its liabilities and as such sufficient to discharge the liabilities and that the Applicant Company undertakes to issue individual notice of the hearing of the Petition by Registered Post A.D. to all such Unsecured Creditors having an outstanding balance of Rs. 5 lacs and above and undertakes to publish the same in one issue each of a daily newspaper viz. "Lokmat Times", in English language and translation thereof in "Lokmat", in Marathi, both circulated at Jalgaon. The undertaking is accepted.

(S.C. Gupte, J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

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