

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SUMMONS FOR DIRECTION NO 869 OF 2015

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

AND

In the matter of Section 391 to 394 read and other applicable provisions of the Companies Act, 1956 and of the Companies Act, 2013

AND

In the matter of Scheme of Amalgamation of Lodha Home Developers Private Limited and Lodha Designer Construction Private Limited with Shree Sainath Enterprises Construction and Developers Private Limited and their respective shareholders and creditors

Lodha Home Developers Private Limited,	}
a Company incorporated under the provisions of	}
Companies Act, 1956 having its registered office	}
at 412, 4 th Floor, 17G, Vardhaman Chamber,	}
Cawasji Patel Road, Horniman Circle, Fort.	}
Mumbai – 400 001.	}....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: K.R. SHRIRAM, J

DATE: 20TH NOVEMBER 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 16th day of October, 2015 of Mr. Vishal Ghadigaonkar, Authorised Representative 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 Amalgamation of Lodha Home Developers Private Limited and Lodha Designer Construction Private Limited with Shree Sainath Enterprises Construction and Developers Private Limited is dispensed with in view of the consent given by both the Equity Shareholders of the Applicant Company,

which are annexed as Exhibits **“C-1” and “C-2”** to the affidavit in support of the Company Summons for Direction.

2. The convening and holding the meeting of the Preference Shareholders of the Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Amalgamation of Lodha Home Developers Private Limited and Lodha Designer Construction Private Limited with Shree Sainath Enterprises Construction and Developers Private Limited is dispensed with in view of the consent given by the sole Preference Shareholders of the Applicant Company, which is annexed as Exhibits **“D-1”** to the affidavit in support of the Company Summons for Direction.
3. The question of convening and holding 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 15 of Affidavit in support of Summons for Directions.
4. The convening and holding the meeting of 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 Amalgamation of Lodha Home Developers Private Limited and Lodha Designer Construction Private Limited with Shree Sainath Enterprises Construction and Developers Private Limited is dispensed with in view of averments made in paragraph 16 of Affidavit in support of Summons for

Directions, inter-alia stating that present Scheme of Amalgamation 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. The Applicant Company undertakes to issue notice of hearing of Company Scheme Petition to all of its Unsecured creditors by R.P.A.D and publish common and composite notices of the date of hearing of petition in English in 'Free Press Journal' in English language and translation thereof in 'Navshakti' in Marathi Language. The said undertaking is accepted.

5. 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 5 of the Scheme and rights of members/creditors of Transferee Company are not affected as mention in para 16 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 Sections 391 and

394 of the Companies Act, 1956 by Shree Sainath Enterprises Construction and Developers Private Limited, the Transferee company is dispensed with.

(**K.R. SHRIRAM, J**)

CERTIFICATE

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

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