

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
COMPANY PETITION Nos.16 and 17 of 2015

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Date:15.06.2015

COMPANY PETITION No.16 of 2015

Between:

M/s Oorjita Projects Private Limited,
Hyderabad, repled by its Managing Director-
Prakash Veer

.....Petitioner/
Transferor Company

AND

COMPANY PETITION No.17 of 2015

Between:

M/s Nucleus Realty Properties India
Private Limited, Hyderabad,
repled by its Director-
Deepak Somani

.....Petitioner/
Transferee Company

Counsel for the petitioners: Sri V.S.Raju

The Court made the following:

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
COMPANY PETITION Nos.16 and 17 of 2015

COMMON ORDER:

Company Petition No.16 of 2015 is filed by M/s
Oorjita Projects Private Limited (transferor Company)
and Company Petition No.17 of 2015 is filed by M/s
Nucleus Realty Properties India Limited (Transferee

Company) for sanction of the proposed scheme of arrangement under Sections 391 and 394 of the Companies Act, 1956 (for short 'the Act') between them.

In Company Petition No.16 of 2015, the petitioner averred that it was incorporated under the Act on 04.01.2001; that its authorized share capital as on 31.03.2014 is Rs.1,50,00,000/- divided into 1,50,000 equity shares of Rs.100/- each; that its issued, subscribed and paid up capital is Rs.1,07,14,300/- divided into 1,07,143 equity shares of Rs.100/- each fully paid up; that its main objects are to carry on in India or elsewhere either alone or jointly with person, Government, local or other bodies, the business to construct, build, sister, acquire, convert, improve, design, erect, establish, equip, develop, dismantle, pull down, turn to account, furnish, level, decorate, fabricate, install, finish, repair, maintain, search, survey, examine, taste, inspect, locate, modify etc., of all types of constructions and developmental work in all its branches such as roads, ways, culverts, dams, bridges, etc; and that by resolution, dated 11.12.2014, its Board of Directors has approved the proposed scheme of arrangement; and that the appointed date is 01.04.2014.

The petitioner further averred that it has four shareholders and all of them have given their No objection affidavits (filed as Annexure-A6) to the proposed scheme of arrangement.

The petitioner has filed Company Application No.1628 of 2014 for dispensing with the holding of meeting of its shareholders for considering the proposed scheme of arrangement. This Court by order, dated 31.12.2014, has allowed the said Company Application.

In Company Petition No.17 of 2015, the petitioner averred that it was incorporated under the Act on 07.02.2014; that its authorized share capital as on 31.03.2014 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each; that its issued, subscribed and paid up capital is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each; that its main objects are to carry on trade or business in India and abroad as contractors, builders, land and estate agents, land developers, surveyors, architects, consulting engineers, decorators, house owners, house seller estate managers and also to acquire flats and offices, sell them, etc; and that by resolution, dated 11.12.2014, its Board of Directors has approved the proposed scheme of arrangement.

The petitioner further averred that it has two shareholders and both of them have given their No objection affidavits (filed as Annexure-A6) to the proposed scheme of arrangement.

The petitioner has filed Company Application No.1629 of 2014 for dispensing with the holding of meeting of its shareholders for considering the proposed scheme of arrangement. This Court by order, dated 31.12.2014, has allowed the said Company Application.

This Court by separate orders, dated 03.02.2015, in Company Petition Nos.16 and 17 of 2015 ordered notice to the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad. Advertisement was also ordered to be published in two daily newspapers, viz., 'Business Standard'_(English) and 'Andhra Bhoomi' (Telugu) having circulation in the State of Telangana. In Company Petition Nos.16 and 17 of 2015, the respective petitioners have filed proof of

publication through memo, dated 10.05.2015, vide USR.Nos.963 and 962 of 2015 respectively and no objections are stated to have been received.

In response to the notice, the Regional Director, South Eastern Region, Ministry of Corporate Affairs, Hyderabad has filed his common report, dated 06.04.2015.

In his common report, the Regional Director has *inter alia* stated that in pursuance of General Circular No.1 of 2014, dated 15.01.2014, issued by the Ministry of Corporate Affairs, New Delhi, comments from the Income Tax Department were invited by him, vide letter, dated 26.02.2015; that no comments/ objections from the Income Tax Department have been received in response to the said notice; that the transferor and transferee companies are regular in filing the statutory returns and that no complaints, no inspection and no investigation are pending against both the companies. However, he has raised two objections, viz., that the transferor company has not filed the consent letters of its secured and unsecured creditors and that the accounting treatment provided vide para Nos.6.4 and 7.3 of Part-B of the scheme of arrangement is not in accordance with Section-2(43) of the Companies Act, 2013 with regard to treatment as "Free Reserves".

Sri V.S.Raju, the learned counsel for the petitioners, has filed memo, dated 15.06.2015, vide USR.No.2397 of 2015 along with which he has filed No objection letters of the secured creditors of the transferor company, viz., M/s HDFC Bank, Begumpet, dated 22.05.2015 and Tata Capital Financial Services Limited, dated 28.05.2015 and the No Objection letters from the ten unsecured creditors of the transferor

company whose balance is Rs.5,70,64,582/-.

From a perusal of these No Objection letters, this Court is convinced that the first objection raised by the Regional Director stands complied with.

As regards the second objection of the Regional Director, the transferor company has filed auditor's certificate, dated 27.05.2015, wherein the Auditor has certified that the transferor company is following the accounting treatment in conformity with Section-2(43) of the Companies Act, 2013 and AS-14 as notified by the Central Government..

In the light of the Auditor's Certificate, the second objection raised by the Regional Director also stands complied with by the transferor company.

Having regard to the report of the Regional Director, the memo, vide U.S.R.No.2397 of 2015, dated 15.05.2015, filed by the petitioner in Company Petition No.16 of 2015 complying with the objections raised by the Regional Director in his common report and as no objections/claims have been received in pursuance of the advertisement for approving the proposed scheme of arrangement, this Court is of the opinion that the proposed scheme of arrangement is in conformity with the provisions of the Act and the same does not in any manner affect the interests of any of the stake holders including the public.

Therefore, the proposed scheme of arrangement is sanctioned with effect from the appointed date i.e., 01.04.2014. The petitioners shall, within 30 days from the date of receipt of a copy of this order, cause a certified copy of the same to be delivered to the Registrar of Companies for the State of Telangana and State of Andhra Pradesh, Hyderabad and take all other

consequential actions in pursuance of the approval of
the scheme of arrangement

The Company Petitions are, accordingly, allowed.

*JUSTICE C.V.NAGARJUNA
REDDY*

*15th June, 2015
DR*