

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 186/2015

Reserved on 10th December, 2015
Date of pronouncement: 23rd December, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

Application under Sections 391(1) & 394 of the Companies Act, 1956

Scheme of Amalgamation of:

Hanuman Buildwell Private Limited

Applicant/Transferor Company

WITH

Fimosys Infrastructure Private Limited

Applicant/Transferee Company

Through Mr. Mohinder Kumar Gupta,
Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391(1) & 394 of the Companies Act, 1956 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Hanuman Buildwell Private Limited (hereinafter referred to as the transferor company) with Fimosys Infrastructure Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company was incorporated under the Companies Act, 1956 on 20th July, 2007 with the Registrar of Companies, NCT of Delhi & Haryana.

4. The transferee company was originally incorporated under the Companies Act, 1956 on 14th February, 2005 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Fimosys Info Solutions Private Limited. The company changed its name to Fimosys Infrastructure Private Limited and obtained the fresh certificate of incorporation on 4th May, 2011.

5. The present authorized share capital of the transferor company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

6. The present authorized share capital of the transferee company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

7. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as on 31st March, 2015, of the transferor and transferee companies, along with the reports of the auditors, have also been filed.

8. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavit. It is claimed that the proposed amalgamation would enable pooling of physical, financial and human resources of these companies for their most beneficial utilization in the combined entity. It is further claimed that the proposed amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of resources and enhancement of overall business efficiency. It will enable these companies to combine their operational strength, to build a wider capital and financial base and to promote and secure overall growth of their businesses.

9. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee

company shall issue and allot equity shares to the shareholders of the transferor company in the following ratio:

“17 equity shares of Rs.10/- each, credited as fully paid up, of the transferee company for every 10 equity shares of Rs.10/- each fully paid up held in the transferor company.”

10. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

11. The Board of Directors of the transferor and transferee companies in their separate meetings held on 12th August, 2015 & 18th August, 2015 respectively have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

12. The transferor company has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of

Amalgamation is dispensed with. There is no secured or unsecured creditor of the transferor company, as on 22nd September, 2015.

13. The transferee company has 15 equity shareholders and 22 unsecured creditors. All the equity shareholders and all the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferee company, as on 22nd September, 2015.

14. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

December 23, 2015