

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SUMMONS FOR DIRECTION NO. 313 OF 2016

In the matter of the Companies Act, 1956;

AND

In the matter of Sections 391 to 394 of
the Companies Act, 1956;

AND

In the matter of Scheme of
Amalgamation of Essel Landmark Private
Limited and Elcom Developers Private
Limited with Sprit Textiles Private Limited
and their respective shareholders

Elcom Developers Private Limited, a company)

incorporated under the provisions of the Companies Act, 1956)

having its registered office at 18th Floor, A Wing, Marathon)

Futurex, N. M. Joshi Marg, Lower Parel, Mumbai 400013)

..... Applicant Company

Called Summons for Direction for hearing

Hemant Sethi i/b. Hemant Sethi & Co, Advocates for the Applicant Company

Coram: B. P. Colabawalla, J

Date: 22nd April 2016

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Summons for Direction AND UPON HEARING Mr. Hemant Sethi i/b. M/s Hemant Sethi & Co, Advocates for the Applicant Company, and upon reading the Affidavit dated 30th March, 2016, of Mr. Ravindra Mishra, Authorized Representative of the Applicant Company, in support of the Company Summons for Direction and the Exhibits therein referred to, IT IS ORDERED THAT:-

- 1) The convening and holding of 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 Essel Landmark Private Limited and Elcom Developers Private Limited with Sprit Textiles Private Limited ("**Transferee Company**") and their respective Shareholders, is dispensed with in view of the consent given by both the Equity Shareholders of the Applicant Company which are annexed as **Exhibit "J1"** and **Exhibit "J2"** to the Affidavit in support of Company Summons for Direction.
- 2) There are no Secured Creditors of the Applicant Company as stated in paragraph 17 of the Affidavit in support of the Company Summons for Direction and hence, the question of convening and holding a meeting of the Secured Creditors does not arise.
- 3) The Convening and holding meeting of the Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought, fit approving with or without modification the proposed Scheme of Amalgamation of Essel Landmark Private Limited and Elcom Developers Private Limited with Sprit Textiles Private Limited is dispensed with in view

of the averments made in paragraph 18 of the Affidavit in support of the Summons for Direction, *inter alia* stating that the interest of unsecured creditors of the Applicant Company will not be affected by the proposed Scheme of Amalgamation as the assets of the Transferee Company, post amalgamation will be sufficient to discharge its liabilities and that the Applicant Company undertakes to issue individual notice of hearing of the Petition by R.P.A.D to such of its Unsecured Creditors as directed by the Court and also to publish the same in two local newspapers i.e. 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) In view of the averments made in paragraphs 19 to 21 of the affidavit in support of the Summons for Direction, *inter alia* stating that the entire share capital of the Applicant Company is held by the Transferee Company and hence after the Scheme becoming effective, no new shares would be issued to the members of the Applicant Company by the Transferee Company and since there is no reorganization of the Share Capital in the Transferee Company pursuant to the scheme and in view of the judgement of this Court in Mahaamba Investments Limited Vs IDI Limited (2001) Company Cases 105 filing of a separate Company Summons for Direction and Company Scheme Petition in relation of the aforesaid Scheme by Sprit Textiles Private Limited, the Transferee Company, is dispensed with.

(B. P. Colabawalla, J)

CERTIFICATE

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

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