

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SUMMONS FOR DIRECTION NO. 1016 OF 2016

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

AND

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

AND

In the matter of Scheme of Amalgamation of Five Stars Bulkcarriers Private Limited with B. G. Shirke Construction Technology Private Limited and their Respective Shareholders

Five Stars Bulkcarriers Private Limited, a Company	}	
Incorporated under the provisions of Companies	}	
Act, 1956 having its registered office at Brady Gladys	}	
Plaza, Unit No. 3, 1/447 Senapati Bapat Marg,	}	
Lower Parel, Mumbai – 400 013	}	Applicant

Called: Summons for Direction

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

CORAM: S. C. Gupte, J

DATE: 14th December, 2016

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 23rd day of September, 2016 of Mr Rajeev Damle, Authorised Signatory 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 Five Stars Bulkcarriers Private Limited with B. G. Shirke Construction Technology Private Limited and their Respective Shareholders is dispensed with, in view of consents given by all the seven Equity Shareholders of the Applicant Company, which are annexed as Exhibits “C1” to “C7” to the Affidavit in support of the Company Summons for Direction.
2. The convening and holding the meeting of the Secured 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 Five Stars Bulkcarriers Private Limited with B. G. Shirke Construction Technology Private Limited and their Respective Shareholders is dispensed with, in view of averments made in paragraph 12 of the affidavit in support of Company Summons for Direction, inter –alia stating that rights of Secured creditors are concerned, their rights are not affected as there is no reduction in amounts payable to the Secured Lenders who will continue to hold charge over the respective assets post sanctioning of the scheme, there is no compromise or arrangement with the Secured Creditors and the Applicant Company undertakes to issue individual notice of the date of hearing of the Company Scheme Petition to all its Secured Creditors by RPAD and also publish the same in two local newspapers namely ‘Free Press Journal’ in English language and translation

thereof in 'Navshakti' in Marathi Language both having circulation in Mumbai. The said undertaking is accepted.

3. The convening and holding the meeting of the 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 Five Stars Bulkcarriers Private Limited with B. G. Shirke Construction Technology Private Limited and their Respective Shareholders is dispensed with, in view of averments made in paragraph 13 of the affidavit in support of Company Summons for Direction, inter –alia stating that so far as rights of Unsecured Creditors are concerned they will not be affected as the present Scheme 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. In terms of the proposed Scheme, the Transferee Company will take over all the assets and liabilities of the Applicant Company and the Applicant Company undertakes to issue individual notice of the date of hearing of the Company Scheme Petition to all its Unsecured Creditors by RPAD and also publish the same in two local newspapers namely 'Free Press Journal' in English language and translation thereof in 'Navshakti' in Marathi Language both having circulation in Mumbai. The said 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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