

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Company Petition No.68 of 2016 (O&M)

Date of Decision: 11.04.2016

IN THE MATTER OF:

Scheme of Arrangement between:

Hans Buildcon Private Limited.

. . . . Petitioner/Amalgamating Company No.1

And

Best Dwellers Private Limited.

. . . . Petitioner/Amalgamating Company No.2

And

SKR Properties Private Limited.

. . . . Petitioner/Amalgamating Company No.3

And

DS Realty and Realtors Private Limited.

. . . . Petitioner/Demerged/Amalgamated Company

And

Luxury Warehousing Private Limited.

. . . . Petitioner/Resulting Company No.1

And

DS Realty Arawli Private Limited.

. . . . Petitioner/Resulting Company No.2

And

Modern Facilitators Private Limited.

. . . . Petitioner/Resulting Company No.3

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN.

Present: - Mr.Anirudh Dass, Advocate, with
Mr.Rohit Khanna, Advocate,
for the petitioner/company.

Mr.Deepak Aggarwal, Advocate, with
Mr.Manjit Singh, Deputy Official Liquidator.

RAKESH KUMAR JAIN, J.

This petition is filed under Section 391 of the Companies Act, 1956 [for short ‘the Act’], duly supported by affidavits of the petitioner-Amalgamating Company No.1 to 3, Demerged/Amalgamated Company and Resulting Company No.1 to 3, seeking dispensation of the meetings of the equity shareholders, secured and unsecured creditors for sanctioning of the Composite Scheme of Arrangement (Annexure P-1) [for short ‘the Scheme’].

As per the Scheme, Amalgamating Company Nos.1 to 3 shall merge into Demerged/Amalgamated company, transfer by way of the “Warehousing Undertaking” of the Demerged Company into the Resulting Company No.1, transfer by way of demerger of the “Housing Project Undertaking” of the Demerged Company into Resulting Company No.2 and the transfer by way of demerger of the “Low Height Warehousing and Vehicle Parking Undertaking” of the Demerged Company into Resulting Company No.3.

The registered office of the petitioner-Amalgamating Companies No.1 to 3, Demerged/Amalgamated Company and Resulting Company No.1 to 3 is situated at Gurgaon, Haryana.

The main objects of the Amalgamating Company No.1 to 3, Demerged/Amalgamated Company and Resulting Company No.1 to 3 are detailed in their respective Memorandum and Articles of Association, which are annexed with the petition as Annexures P-2, P-4, P-6, P-8, P-10, P-12 and P-14 respectively.

The Board of Directors of the petitioner- Amalgamating Company No.1 to 3, Demerged/Amalgamated Company and Resulting Company No.1 to 3 have approved the Scheme in their

respective meetings held on 15.2.2016 vide Resolutions annexed with the petition as Annexures P-16 to P-22, respectively.

It is averred in the petition that as on 31.1.2016, the petitioner/Amalgamating Company No.1 has 02 (two) Equity Shareholders and both of them have given their consent and approved the Scheme. Their consent letters to the Scheme are attached as Annexure P-24 and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-23.

The Amalgamating Company No.1 has no Secured Creditor as on 31.1.2016. The certificate in this regard issued by H.R. Surendra and Company, Chartered Accountants is attached as Annexure P-25.

The petitioner/Amalgamating Company No.1 has 1 (one) Unsecured Creditor as on 31.1.2016. The consent letter to the Scheme is attached as Annexure P-27 and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Unsecured Creditors, is attached as Annexure P-26.

The petitioner/Amalgamating Company No.2 has 2 (two) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-29 and the certificate issued in this regard by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-28.

The petitioner/Amalgamating Company No.2 has 1 (one) Preference Shareholders as on 31.1.2016. The consent letter to the Scheme is attached as Annexure P-31 and the certificate issued by

H.R. Surendra and Company, Chartered Accountants, certifying the list of Preference Shareholders, is attached as Annexure P-30.

The petitioner/Amalgamating Company No.2 has no Secured Creditors as on 31.1.2016. The certificate to this effect issued by H.R. Surendra and Company, Chartered Accountants is attached as Annexure P-32.

The petitioner/Amalgamating Company No.2 has 2 (two) Unsecured Creditors as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-34 and the certificate issued in this regard by H.R. Surendra and Company, Chartered Accountants, certifying the list of Unsecured Creditors, is attached as Annexure P-33.

The petitioner/Amalgamating Company No.3 has 2 (two) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-36 and the certificate issued in this regard by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-35.

The petitioner/Amalgamating Company No.3 has 1 (one) Preference Shareholder as on 31.1.2016. The consent letter of the sole Preference Shareholder to the Scheme is attached as Annexure P-38 and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Preference Shareholders, is attached as Annexure P-37.

The petitioner/Amalgamating Company No.3 has no Secured Creditor as on 31.1.2016. The certificate to this effect

issued by H.R. Surendra and Company, Chartered Accountants is attached as Annexure P-39.

The petitioner/Amalgamating Company No.3 has 2 (two) Unsecured Creditors as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-41 (Colly) and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Unsecured Creditors, is attached as Annexure P-40.

The petitioner/Demerged/Amalgamated Company has 24 (twenty four) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-43 (Colly) and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-42.

The petitioner/Demerged/Amalgamated Company has only 1 (one) Preference Shareholder as on 31.1.2016. The consent letter to the Scheme is attached as Annexure P-45 and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Preference Shareholders, is attached as Annexure P-44.

The petitioner/Demerged/Amalgamated Company has no Secured Creditors as on 31.1.2016. The certificate issued in this regard by H.R. Surendra and Company, Chartered Accountants is attached as Annexure P-46.

The petitioner/Demerged/Amalgamated Company has 7 (seven) Unsecured Creditors as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-48 and the certificate

issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Unsecured Creditors, is attached as Annexure P-47.

The petitioner/Resulting Company No.1 has 2 (two) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-50 (Colly) and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-49.

The petitioner/Resulting Company No.1 has no Secured and Unsecured Creditors as on 31.1.2016. The certificates to this effect issued by H.R. Surendra and Company, Chartered Accountants are attached as Annexure P-51 & P-52 respectively.

The petitioner/Resulting Company No.2 has 2 (two) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-54 (Colly) and the certificate issued by H.R. Surendra and Company, Chartered Accountants, certifying the list of Equity Shareholders, is attached as Annexure P-53.

The petitioner/Resulting Company No.2 has no Secured and Unsecured Creditors as on 31.1.2016. The certificates in this regard issued by H.R. Surendra and Company, Chartered Accountants are attached as Annexure P-55 & P-56, respectively.

The petitioner/Resulting Company No.3 has 2 (two) Equity Shareholders as on 31.1.2016. Their consent letters to the Scheme are attached as Annexure P-58 (Colly) and the certificate issued by H.R. Surendra and Company, Chartered Accountants,

certifying the list of Equity Shareholders, is attached as Annexure P-57.

The petitioner/Resulting Company No.3 has no Secured and Unsecured Creditors as on 31.1.2016. The certificates in this regard issued by H.R. Surendra and Company, Chartered Accountants are attached as Annexure P-59 & P-60, respectively.

Thus, in view of the consent given by the Equity Shareholders of the petitioner- Amalgamating Company No.1 to 3, Demerged/Amalgamated Company and Resulting Company No.1 to 3 and Unsecured Creditors of Amalgamating Company No.1 to 3, Demerged/Amalgamated Company, Preference Shareholders of Amalgamating Company No.2 and 3 and Demerged/Amalgamated Company convening of their meetings are hereby ordered to be dispensed with.

Since, there are no secured creditors of any of the petitioner-companies and unsecured creditors of Resulting Company No.1 to 3, therefore, no meetings are required. Hence, the first motion is disposed of accordingly. The petitioner shall now be at liberty to move second motion petition.

11.04.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**