

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CO.APPL.(M) 33/2016

IN THE MATTER OF
HARI PARVAT REALTY PRIVATE LIMITED

.... Applicant No.1/ Transferor Company

WITH

HARI PARVAT FINANCIAL ADVISORS & CONSULTANTS
PRIVATE LIMITED

.... Applicant No.2/Transferee Company

Through: Mr. Ashish Middha, Advocate

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER
26.02.2016

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1. This is a first motion (joint) application filed by Hari Parvat Realty Private Limited (applicant no.1/transferor company) with Hari Parvat Financial Advisors & Consultants private limited (applicant no.2/transferee company) (hereafter collectively referred to as the applicants) under section 391 to 394 of the Companies Act, 1956 (in short the Act) for approval of the scheme of amalgamation (hereafter referred to as the scheme).A copy of the scheme is enclosed with the application.
2. The registered office of the applicants are located in Delhi and, therefore, within the territorial jurisdiction of this Court.
3. The details with respect to incorporation and the applicants' authorized, issued, subscribed and paid-up capital are set out in the preamble and part II of the scheme.

3.1 Copies of Memorandum and Articles of Association as well as the latest audited annual accounts as on 31.03.2015 have been filed by the applicants.

4. The scheme has been approved by the Board of Directors (BOD) of the applicants. Copies of the BOD resolutions of even date i.e. 07.11.2015, are filed with the application.

5. The applicants aver that there are no proceedings pending against them, under Sections 235 to 251 of the Act.

6. The position with regard to shareholders (i.e. equity and preference) and unsecured creditors of the applicants, as averred by them, is as follows:

Company	No. Of Equity Shareholders	Consent given	No. Of Preference Shareholders	Consent given	No. of Unsecured Creditors	Consent given
Transferor Company	03	ALL	01	ALL	02	ALL
Transferee Company	05	ALL	03	ALL	04	02 (93.50% in value and 50% in number)

7. As would be evident upon reading of the aforementioned table, it is clear that consents have been obtained from the shareholders (i.e. equity and preference) of the applicants.

7.1 In these circumstances, in so far as the shareholders (i.e. equity and preference) of the applicants are concerned, the requirement to convene their meetings is dispensed with.

8. In so far as the unsecured creditors of the transferor company are concerned, consent of all the creditors has been obtained qua the scheme.

8.1 As regards the unsecured creditors of the transferee company is concerned, two (2) out of four (4) have given their consent. The percentage of consent given, as averred by the applicants, in terms of value and number is as

follows: 93.50% in value and 50% in number. However, on a proper calculation being made, it is revealed, the position with regard to the consent given, in terms of value is 93.44%, which in number works out to 50%.

8.2. Accordingly, the prayer made for dispensing with the requirement of convening meetings of the unsecured creditors of the applicants is allowed. The reason for allowing the prayer made for dispensation with the requirement of convening meeting of the unsecured creditors of the transferee company, is that, the percentage of consent given, in value, in this case, is above 75%.

9. The joint application stands disposed of in the aforesaid terms.

10. Dasti.

RAJIV SHAKDHER, J

FEBRUARY 26, 2016