

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 113/2016

Reserved on 2nd August, 2016
Date of pronouncement: 2nd September, 2016

In the matter of

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

And

**Application under Section 391 of the
Companies Act, 1956**

Scheme of Amalgamation of:

Aleron Builders & Constructions Private Limited
Applicant/Transferor Company No. 1

Aeval Estates Private Limited
Applicant/Transferor Company No. 2

Cascata Builders & Constructions Private Limited
Applicant/Transferor Company No. 3

Demeta Estates Developers Private Limited
Applicant/Transferor Company No. 4

Hora Realtors Private Limited
Applicant/Transferor Company No. 5

Hubert Builders & Developers Private Limited
Applicant/Transferor Company No. 6

Philia Estates Developers Private Limited
Applicant/Transferor Company No. 7

Rupavidhya Real Estate Developers Private Limited
Applicant/Transferor Company No. 8

WITH

Atherol Builders & Developers Private Limited
Applicant/Transferee Company

**Through Mr. Ravi Bassi, Advocate for
the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Section 391 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 Aleron Builders & Constructions Private Limited (hereinafter referred to as the transferor company no. 1); Aeval Estates Private Limited (hereinafter referred to as the transferor company no. 2); Cascata Builders & Constructions Private Limited (hereinafter referred to as the transferor company no. 3); Demeta Estates Developers Private Limited (hereinafter referred to as the transferor company no. 4); Hora Realtors Private Limited (hereinafter referred to as the transferor company no. 5); Hubert Builders & Developers Private Limited (hereinafter referred to as the transferor company no. 6); Philia Estates Developers Private Limited (hereinafter referred to as the transferor company no. 7) and Rupavidhya Real Estate Developers Private Limited (hereinafter referred to as the transferor company no. 8) with Atherol Builders & Developers 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 no. 1 was incorporated under the Companies Act, 1956 on 28th March, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 9th April, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 31st March, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company no. 4 was incorporated under the Companies Act, 1956 on 24th March, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

7. The transferor company no. 5 was incorporated under the Companies Act, 1956 on 9th April, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The transferor company no. 6 was incorporated under the Companies Act, 1956 on 21st March, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The transferor company no. 7 was incorporated under the Companies Act, 1956 on 23rd March, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

10. The transferor company no. 8 was incorporated under the Companies Act, 1956 on 12th June, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

11. The transferee company was incorporated under the Companies Act, 1956 on 2nd July, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

12. The present authorized share capital of the transferor company no.1 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

13. The present authorized share capital of the transferor company no.2 is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

14. The present authorized share capital of the transferor company no.3 is Rs.15,00,000/- divided into 1,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each.

15. The present authorized share capital of the transferor company no.4 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

16. The present authorized share capital of the transferor company no.5 is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

17. The present authorized share capital of the transferor company no.6 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

18. The present authorized share capital of the transferor company no.7 is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each.

19. The present authorized share capital of the transferor company no.8 is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,25,000/- divided into 12,500 equity shares of Rs.10/- each.

20. The present authorized share capital of the transferee company is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.1,50,000/- divided into 15,000 equity shares of Rs.10/- each.

21. 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 report of the auditors, have also been filed.

22. 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 affidavits. It is claimed by the applicants that the proposed amalgamation will achieve size, scale, integration and greater financial strength as well as flexibility and maximizing the shareholders' value. It is further claimed that the financial, managerial and technical resources pooling together in the merged entity will increase in the competitive strength, cost reduction and efficiencies.

23. So far as the share exchange ratio is concerned, the Scheme provides that since all the transferor companies are wholly owned subsidiaries of the transferee company, therefore, the entire issued,

subscribed and paid-up equity capital of all the transferor companies shall automatically stand cancelled and extinguished, upon sanction of the Scheme.

24. 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.

25. The Board of Directors of the transferor and transferee companies in their separate meetings held on 29th March, 2016 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.

26. The transferor company no. 1 has 02 equity shareholders and 03 unsecured creditors. Both 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 transferor company no. 1 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 transferor company no. 1, as on 28th March, 2016.

27. The transferor company no. 2 has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both 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 transferor company no. 2 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 transferor company no. 2, as on 28th March, 2016.

28. The transferor company no. 3 has 02 equity shareholders and 03 unsecured creditors. Both 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 transferor company no. 3 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 transferor company no. 3, as on 28th March, 2016.

29. The transferor company no. 4 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured creditor 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 creditor of the transferor company no. 4 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 transferor company no. 4, as on 28th March, 2016.

30. The transferor company no. 5 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured creditor 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 creditor of the transferor company no. 5 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 transferor company no. 5, as on 28th March, 2016.

31. The transferor company no. 6 has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both 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 transferor company no. 6 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 transferor company no. 6, as on 28th March, 2016.

32. The transferor company no. 7 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured creditor 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 creditor of the transferor company no. 7 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 transferor company no. 7, as on 28th March, 2016.

33. The transferor company no. 8 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the sole unsecured creditor 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 creditor of the transferor company no. 8 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 transferor company no. 8, as on 28th March, 2016.

34. The transferee company has 02 equity shareholders and 02 unsecured creditors. Both the equity shareholders and both 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 28th March, 2016.

35. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

September 02, 2016