

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV**

CA(CAA)-280/MB/2023

*In the matter of
Sections 230 to 232 and other applicable
provisions of the Companies Act, 2013*

And

*In the matter of
The Scheme of Arrangement between
Puranik Builders Limited
(Demerged Company/
Applicant Company-1)*

And

*Puranik City Reserva Private Limited
(Resulting Company/
Applicant Company-2)*

And their respective Shareholders.

Puranik Builders Limited
[CIN: U99999MH1990PLC056451]

... Applicant Company-1/
Demerged Company

Puranik City Reserva Private Limited
[CIN: U70109MH2022PTC395624]

... Applicant Company-2/
Resulting Company

(hereinafter collectively referred to as the 'Applicant Companies')

Order pronounced on: 07.02.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearance :

For the Applicants : Mr. Hemant Sethi a/w Ms. Devanshi
Sethi i/b Hemant Sethi & Co., Advocates.

ORDER

1. This is an Application filed jointly by Puranik Builders Limited (Company) & Puranik City Reserva Private Limited under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013, seeking directions of this Bench for Scheme of Arrangement between **Puranik Builders Limited** (Demerged Company) and **Puranik City Reserva Private Limited** (Resulting Company) and their respective shareholders (the "Scheme").
2. The Counsel for the Applicant Companies submits that the First Applicant Company / the Demerged Company is engaged in the business of real estate business and allied activities.
3. The Counsel for the Applicant Companies further submits that the Second Applicant Company / the Resulting Company is a wholly owned subsidiary of the First Applicant Company formed for the purpose of real estate business and allied activities.
4. The Applicants states that the Board of Directors of the Applicant Companies in their respective meetings held on 29.08.2023 have approved the Scheme. The Appointed Date for the Scheme is 1st April 2023.

5. **Rationale:**

The Counsel for the Applicant Companies submits that after the Scheme coming into effect, the Applicant Companies will have the following benefits:

- a. *The Demerged Company is engaged in development of various real estate projects. One of its real estate project known as the Puranik City Reserva Project (Demerged Undertaking) is contemplated to be demerged into Demerged Company's WoS, the Resulting Company on a going concern basis.*
- b. *This proposed to hive-off the Demerged Undertaking along with all assets, liabilities, employees etc. into Resulting Company will result in focused approach to exploit the growth potential of the project. It will help in providing flexibility to raise capital and also to attract fresh set of investors / strategic partners to participate in the project.*

6. The Applicant Companies state that the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies as on 31.03.2023 are as under:

First Applicant Company:

Particulars	Amount (in Rs)
<u>Authorised Share Capital</u>	
10,60,00,000 Equity Shares of Rs. 10/- each	106,00,00,000
90,00,000 5% Redeemable non-Convertible Preference Shares of Rs. 10/= each	9,00,00,000
TOTAL	115,00,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	

5,76,48,207 Equity Shares of Rs. 10/- each	57,64,82,070
90,00,000 5% Redeemable Non-Convertible Preference Shares of Rs. 10/-	9,00,00,000
TOTAL	66,64,82,070

Second Applicant Company:

Particulars	Amount (in Rs)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

7. *Consideration:*

The Counsel for the Applicant Companies further submits that upon the Scheme becoming effective and in terms of this Scheme, the Resulting Company shall without any application or deed, issue and allot redeemable preference shares, to the extent indicated below:

- a) to the equity shareholders of the Demerged Company holding fully paid up equity shares of the Demerged Company and whose name appear in the register of members of the Demerged Company on the Effective Date or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of the Demerged

Company and the Resulting Company in the following proportion:

“289 (Two hundred and forty-seven) fully paid Non-Cumulative Redeemable Preference share of INR 10/- (Indian Rupees Ten) each in PCRPL for every 10,000 (Ten Thousand) fully paid Equity Share of INR 10/- (Indian Rupees Ten) each held in PBL” in proportion of their holdings in the Demerged Company as on the Effective Date.

b) To the redeemable preference shareholders of the Demerged Company respective heirs, executors, administrators or other legal representatives or other successors in title, whose names appear in the Register of Preference Shareholders on the Effective Date as under:

“1 (One) fully paid 1% Non-Cumulative Redeemable Preference share of INR 10/- (Indian Rupees Ten) each in PCRPL for every 100 (Hundred) 5% Redeemable Preference share of INR 10/- (Indian Rupees Ten) each held in PBL”

8. The Counsel for the Applicant Companies further submit that there are eight (8) Equity Shareholders in the First Applicant Company. The consent affidavits of all eight Equity Shareholders of the First Applicant Company have been obtained. In view of the fact that all the Equity Shareholders of the First Applicant Company have given their consent to the Scheme, the meeting of the Equity Shareholders of the First Applicant Company is hereby dispensed with.
9. The Counsel for the Applicant Companies further submits that there is one (1) Preference Shareholder in the First Applicant Company. The

consent affidavit of the sole Preference Shareholder of the First Applicant Company has been obtained. In view of the fact that the sole Preference Shareholder of the First Applicant Company have given its consent to the Scheme, the meeting of the Preference Shareholder of the First Applicant Company is hereby dispensed with.

10. The Counsel for the Applicant Companies further submits that there are five (5) Secured Creditors (including debenture holders) aggregate amounting to Rs.617,64,82,886/- in the First Applicant Company and requests this Tribunal to direct to convene the meeting of the Secured Creditors of the First Petitioner Company, to be convened for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme.
11. The First Petitioner Company is hereby directed to:
 - a) Issue Notice convening meeting of the Secured Creditors of the First Petitioner Company in Form No. CAA.2 as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
 - b) Issue Statement containing all the particulars as per Section 230(3) of the Companies Act, 2013;
 - c) Issue form of proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - d) Advertise the Notice convening meeting in Form No. CAA.2 as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

12. That at least 30 clear days before the said meeting of the Secured Creditors of the First Petitioner Company to be held as aforesaid, a notice convening the said meeting at the place, day, date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the prescribed form of proxy, shall be sent by Courier/ Registered Post / Hand Delivery / Speed Post or through Email (to those Secured Creditors whose email addresses are duly registered with the First Petitioner Company for the purpose of receiving such notices by email), addressed to the Secured Creditors of the First Petitioner Company, at their last known address or email addresses as per the records of the First Petitioner Company, as on September 30, 2023 determined by the Board of Directors of the First Petitioner Company.
13. Ms. Neeru Sharma, DGM (Rtd.), SBI, Mumbai, mob.: 9119132626, e-mail: neeru62@gmail.com, shall be the Chairperson of the meeting of the Secured Creditors of the First Applicant Company to be held as per the date and venue mutually decided by the management of the company and the Chairperson. The date of meeting shall be within 45 days from the date of this order.
14. The Scrutinizer for the aforesaid meeting of Secured Creditors of First Petitioner Company shall be Mr. Dhrumil M. Shah (C.P. No. 8978), Practicing Company Secretary, with a remuneration of Rs. 25,000/- for the services rendered.

15. The Chairperson appointed for the aforesaid meeting to issue the advertisement and send out the notices of the meeting referred to above. The said Chairman of the meeting shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meeting, including for deciding procedural questions that may arise at the aforesaid meeting or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
16. The quorum of the aforesaid meeting of the Secured Creditors of the First Petitioner Company shall be as prescribed under Section 103 of the Companies Act, 2013, present either in person or by authorized representative. If the quorum is not present within half an hour from the time appointed for the holding of the meeting, the Secured Creditors present shall be the quorum and the meeting shall be held.
17. The voting by authorized representative in case of body corporate be permitted, provided that authorization duly signed by the person entitled to attend and vote at the meeting is filed with the First Petitioner Company at the Registered Office not later than 48 hours before the aforesaid meeting.
18. The value and number Secured Creditors of the First Petitioner Company shall be in accordance with the books of accounts of the First Petitioner Company where the entries in the books are disputed, the Chairman of the meeting shall determine the value for the purpose of the aforesaid

meeting and his decision in that behalf would be final.

19. The Chairperson of the meeting of the First Petitioner Company to report to this Tribunal, the results of the aforesaid meeting within Seven days of the conclusion of the meeting of the Secured Creditors along with the Scrutineer's report.
20. The Counsel for the Applicant Companies states that there are 2019 (Two thousand and Nineteen) Unsecured creditors aggregate amounting to Rs.174,89,11,656/- and that the meeting of the Unsecured Creditors of the First Applicant Company / Demerged Company be convened for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme.
21. The First Applicant Company / Demerged Company is hereby directed to:
 - i. Issue Notice convening meeting of the Unsecured Creditors of the First Applicant Company in Form No. CAA.2 as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, who are unsecured creditors as on the cut-off date;
 - ii. Issue Statement containing all the particulars as per Section 230(3) of the Companies Act, 2013;
 - iii. Issue form of proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
 - iv. Advertise the Notice convening meeting in Form No. CAA.2 as per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

22. That at least 30 clear days before the said meeting of the Unsecured Creditors of the First Applicant Company to be held as aforesaid, a notice convening the said meeting at the place, day, date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act, 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the prescribed form of proxy, shall be sent by Courier/ Registered Post / Hand Delivery / Speed Post or through Email (to those Unsecured Creditors whose email addresses are duly registered with the First Applicant Company for the purpose of receiving such notices by email), addressed to the Unsecured Creditors of the First Applicant Company, at their last known address or email addresses as per the records of the First Applicant Company, as on cut-off date determined by the Board of Directors of the First Applicant Company.
23. Ms. Neeru Sharma, DGM (Rtd.), SBI, Mumbai, mob.: 9119132626, e-mail: neeru62@gmail.com, shall be the Chairperson of the meeting of the Unsecured Creditors of the First Applicant Company to be held as per the date and venue mutually decided by the management of the company and the Chairperson. The date of meeting shall be within 45 days from the date of this order.
24. The Scrutinizer for the aforesaid meeting of Unsecured Creditors of First Applicant Company shall be Mr. Dhrumil M. Shah (C.P. No. 8978),

Practicing Company Secretary, with a remuneration of Rs. 25,000/- for the services rendered.

25. The Chairperson appointed for the aforesaid meeting to issue the advertisement and send out the notices of the meeting referred to above. The said Chairman of the meeting shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meeting, including for deciding procedural questions that may arise at the aforesaid meeting or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
26. The quorum of the aforesaid of meeting of the Unsecured Creditors of the First Applicant Company shall be as prescribed under Section 103 of the Companies Act, 2013, present either in person or by authorized representative. If the quorum is not present within half an hour from the time appointed for the holding of the meeting, the Unsecured Creditors present shall be the quorum and the meeting shall be held.
27. The voting by authorized representative in case of body corporate be permitted, provided that authorization duly signed by the person entitled to attend and vote at the meeting is filed with the First Applicant Company at the Registered Office not later than 48 hours before the aforesaid meeting.
28. The value and number Unsecured Creditors of the First Applicant

Company shall be in accordance with the books of accounts of the First Applicant Company where the entries in the books are disputed, the Chairman of the meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

29. The Chairperson of the meeting of the First Applicant Company to report to this Tribunal, the results of the aforesaid meeting within Seven days of the conclusion of the meeting of the Unsecured Creditors along with the Scrutineers report.
30. The Chairperson will receive a consolidated amount of Rs.1,50,000/- (Rupees One lakh fifty thousands only) for conducting the above two meetings of secured and unsecured creditors of the First Applicant Company.
31. The Counsel for the Applicant Companies further submit that there are two (2) Equity Shareholders in the Second Applicant Company. The consent affidavits of both the Equity Shareholders of the Second Applicant Company have been obtained. In view of the fact that both the Equity Shareholders of the Second Applicant Company have given their consent to the Scheme, the meeting of the Equity Shareholders of the Second Applicant Company is hereby dispensed with.
32. The Counsel for the Applicant Companies further submits that there are no preference shareholders, no secured creditors and no unsecured creditors in the Second Applicant Company and therefore the question of

meeting of preference shareholders, secured creditors, unsecured creditors of the Second Applicant Company does not arise.

33. The First Applicant Company and the Second Applicant Company, are directed to serve notice along with copy of Scheme under the provisions of Section 230 (5) of the Companies Act, 2013 and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 upon the-
- i. Central Government through the office of Regional Director, Western Region, Mumbai;
 - ii. Jurisdictional Registrar of Companies;
 - iii. Jurisdictional Income Tax Authority within whose jurisdiction the respective Applicant Company's assessment are made;
 - iv. the concerned Nodal Officer in the Income Tax Department having jurisdiction over such authority.
 - v. concerned Goods and Service Tax Authorities;
 - vi. Real Estate Regulatory Authority.
34. The above notice shall be served through Registered Post AD/Speed Post and by Hand Delivery pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The said notice will contain a statement that *"If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme"*.

35. The Applicant Companies shall host the notices along with a copy of the Scheme on their respective websites, if any.
36. The Applicant Companies will submit –
- a. details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any;
 - b. list of pending IBC cases, if any;
 - c. details of all other litigation pending against the Applicant Company having material impact on the proposed Scheme;
 - d. details of all Letters of Credit sanctioned and utilized as well as Margin Money details, if any.
37. The Applicant Companies shall host notices along with the copy of the Scheme on their respective websites, if any.
38. The Appointed Date is 1st April 2023.
39. The Applicant Companies to file an Affidavit of Service and Compliance Report within 10 working days after serving notice to all the Regulatory Authorities as stated above.
40. With the above directions, CA(CAA)-280/2023 is **allowed**.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

07.02.2024/pvs/kb