

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
J. C. M. No. 34 / 2017

DATE

ORDER WITH SIGNATURE OF JUDGE

- 1) For hearing of main Petition.
- 2) For orders on CMA No. 311/2018.
- 3) For orders on CMA No. 373/2018.

30.11.2018.

Mr. Mayhar Qazi Advocate for Petitioner.
Mr. Syed Ebad Advocate for SECP.

2. **CMA 311/2018**). This is an application under Order 1 Rule 10 read with Order 6 Rule 17 Civil Procedure Code filed on behalf of the Petitioner. Learned Counsel for the Petitioner submits that though all requisite formalities including publication and gazette notification have been completed; however, there is a clerical mistake in the name of the Petitioner as the word “Pakistan” has been left out, hence before grant of the Petition, this application may be allowed.

On 27.11.2018 copy of this application was supplied to SECP with directions to check that whether there is any other Company having a similar or identical name. Today, statement has been filed on behalf of SECP wherein, it is stated that as per record Company with the name of “Qasim International Container Terminal Pakistan Limited” is registered and there is no other Company having a similar name as of the Petitioner. Ordinarily such an application could not have been granted at this stage as Advertisement and Gazette Notification have been published; however, at the same time Rule 19(2) of the Companies (Court) Rules, 1997 empowers a Company Judge to dispense with an advertisement required by these rules. I have considered and examined

the record and in my view the mistake appears to be clerical as it is only the word "Pakistan" which is missing in the title and name of the Petitioner, whereas, it has been confirmed that there is no other Company with a similar and or identical name.

In view of such position, by exercising discretion vested in this Court, I am of the view that this application merits consideration and is accordingly allowed. Let an amended title be filed with a correct name which is to be read as "Qasim International Container Terminal Pakistan Limited" instead of existing in the Memo of Petition.

1 & 3) Before any final order could be passed it is has been noticed that SECP through its comments dated 5.1.2018 has raised an objection that new shares after the arrangement if approved will be issued to DP World FZE, which is a Company incorporated under the laws of Jebel Ali Free Zone, United Arab Emirates, for which an NOC may be obtained from Ministry of Interior, and to this there is no Rejoinder or response from the Petitioner. Let such issue be responded on the next date, whereas, the Petitioner shall also respond to the query that as to before grant of this Petition, or at least before issuance of shares to such foreign entity, is it not mandatory to obtain permission of and registration before the State Bank of Pakistan, as the petition is silent about this aspect of the matter.

To come up on **7.12.2018**.

J U D G E

This is a Company Petition under Section 279 and 282 of the Companies Act, 2017 in respect of Scheme of Re-construction of the shareholdings of the Petitioner Company, in that the shares held by Mackinnon, Mackenzie & Co. Pakistan (Pvt.) Limited and DP World Qasim Limited (“DP Bermuda Shares”) are to be cancelled and thereafter, issued and allotted to DP World FZE. M/s. Mackinnon, Mackenzie & Co. Pakistan (Pvt.) Limited holds 4,550,001 shares in the Petitioner, whereas, DP World Qasim Limited (“DP Bermuda Shares”) holds 21,984,948 shares and through this arrangement these shares are being cancelled from the name of these Companies and are being allotted in the name of DP World FZE. The scheme of arrangement as set forth in Annexure __ is part and parcel of this petition so as to make the scheme of arrangement binding upon the Petitioner(s) and Shareholders (both new and existing). The petitioner company is an unlisted public company, whereas, all members of the petitioner are of a single class, being holders of ordinary shares and each member is affected by this scheme of arrangement and reconstruction.

On 27.11.2017 on applications (CMA Nos. 307 and 308 of 2017) on behalf of the Petitioner under Rule 279 of the Companies Act, 2017, the Court had permitted to convene meeting(s) of the members of the Petitioner after publishing a notice in newspapers, whereas, further directions were given for advertisement of the main Petition for publishing in terms of Rule 76 read with Rule 19 of the Companies Ordinance (Court) Rules, 1997 and notice was also ordered to Securities & Exchange Commission of Pakistan. It appears that all requisite

formalities have been completed as publication has been made in daily "JANG" dated 3.1.2018, Daily "EXPRESS" dated 4.1.2018 and daily "BUSINESS RECORDER" dated 04.01.2018, respectively, whereas, meeting of all members was convened who have approved the said scheme of arrangement and a report dated 19.2.2018 has been furnished by the Chairman which has been placed before the Court through statement dated 06.03.2017. A proper notice has also been published in the Gazette of Pakistan dated 10.01.2018. Comments dated 05.01.2018 have been filed by SECP, wherein an objection was raised in respect transfer and allotment of shareholding to of Subsequent to passing of orders of this Court Additional Registrar of Companies, In-charge Company Registration Office, Karachi, Securities & Exchange Commission of Pakistan has filed statement dated 06.04.2018.

In view of such position, since all formalities have been completed whereas, no objections have been received from any quarter, there appears to be no impediment in granting this Petition which is accordingly allowed as prayed.

J U D G E

ARSHAD/