

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CO.PET. 241/2010

KISMAT RADIO (INDIA) PVT. LTD. Transferor Company No.1.
 DREAM RADIO (I) PVT LTD.....Transferor Company No.2.
 MAGIC RADIO (I) PVT LTD Transferor Company No.3.
 SITARA RADIO (I) PVT LTD. Transferor Company No.4.
 Through Ms.Malini Sud, Mr.Rahul Dua,
 advocates.

WITH

DHUN RADIO PVT LTD Transferee Company
 Through Mr.K.S. Pradhan, Dy.ROC.

CORAM:**HON'BLE MR. JUSTICE SANJIV KHANNA****ORDER**

% 23.11.2010

1. This second motion under Sections 391(2) and 394 of the Companies Act, 1956 (hereinafter referred to as Act, for short) has been filed by Kismat Radio (I) Pvt. Ltd (Transferor Company no.1), Dream Radio (I) Pvt. Ltd (Transferor Company No.2), Magic Radio (I) Pvt. Ltd (Transferor Company No.3), Sitara Radio (I) Pvt. Ltd. (Transferor Company No.4) and Dhun Radio Pvt. Ltd. (Transferee Company) for sanction/approval of the scheme of amalgamation which has been enclosed as Annexure A.

2. Transferor Company nos. 1-4 and the Transferee Company had earlier filed Co.A.(M) No. 98/2010 which was disposed of on 24th May, 2010. In view of the no objection certificates/consent letters, the Court dispensed with the need and requirement to convene and hold meetings of the shareholders and

unsecured creditors of the Transferor Company nos. 1-4 and the Transferee Company. It may be noted that it was stated that the Transferor Company nos. 1-4 and the Transferee Company did not have secured.

3. After filing of the present petition, notices were directed to be issued to the Regional Director (NR) and the Official Liquidator. Notices were also directed to be published in the newspaper 'Statesman' (English) and 'Jansatta' (Hindi). The petitioners have filed affidavit enclosing therewith newspaper clippings of the publications in the said two newspapers.

4. Regional Director (NR) in his reply has stated that employees of the Transferor company nos. 1-4 will become the employees of the Transferee Company without any break or interruption in service upon approval of the scheme of amalgamation. It is further stated that one of the Transferor Company has filed a Letters Patent Appeal in the Delhi High Court on the question of refund of license fee paid by the said Company to the Ministry of Information and Broadcasting. Pendency of the said litigation does not affect or negate against the approval/sanction of the proposed Scheme of Amalgamation. The Scheme of Amalgamation itself envisages that even after the amalgamation, pending legal proceedings can continue and shall not be affected. Para '5a' of the proposed Scheme of Amalgamation stipulates that all legal proceedings of whatever nature by or against any of the Transferor Companies, if pending, on the effective date, shall not abate, be discontinued or be in any way prejudicially affected by reason of the vesting of the Transferor Companies in the Transferee Company. Para '5b' of the proposed Scheme of Amalgamation refers to the judgment and order dated 14th

September, 2009 passed in the said LPA No.78/2008 relating to refund of Reserve License Fee paid by the Transferor Company and the same shall stand transferred and assigned to the Transferee Company without any act or deed and the Transferee Company have the right to pursue the said proceedings.

6. Official Liquidator has stated that no complaint has been received against the proposed scheme of amalgamation by any person/party interested in the scheme. It is further stated that on the basis of the information submitted by the petitioners-Transferor company nos.1-4, the Official Liquidator is of the view that the affairs of the Transferor company nos. 1-4 do not appear to have been conducted in a manner prejudicial to the interest of its members or public interest.

7. In view of the aforesaid, the present petition is allowed and the proposed scheme of amalgamation is approved/sanctioned. The Transferor company nos. 1-4 will stand dissolved from the effective date. It is clarified that this order will not be construed as an order granting exemption from payment of stamp duty, if payable.

The petition is disposed of.

DASTI.

SANJIV KHANNA, J.

NOVEMBER 23, 2010
P