IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SUMMONS FOR DIRECTION NO.203 OF 2015

In the matter of the Companies Act, 1956;

-And-

In the matter of Sections 391 to 394 of the Companies Act, 1956;

-And-

In the matter of the Scheme of Amalgamation amongst
Surmee Agencies Private Limited, the Transferor Company

WITH

Raheja Universal (Pvt) Limited, the Transferee Company

AND

Their respective shareholders and creditors

Surmee Agencies Private Limited,)
a company incorporated under the)
Companies Act, 1956 ("Act") and)
having its registered office at)
Raheja Centre Point, 294, C.S.T.)
Road Near Mumbai University,)
Off Bandra Kurla Complex,)
Santacruz (E), Mumbai - 400098.)...Applicant Company

<u>Called for Summons for Direction for hearing</u>

Mr. Laxmi Mankar, Advocate for the Applicant

Coram: S. J. Kathawalla, J.

Date : 13th March, 2015

<u>MINUTES OF THE ORDER</u>

UPON the application of the Applicant Company abovenamed by a Summons for Direction AND UPON HEARING Mr. Laxmi Mankar, Advocate for the Applicant Company, AND UPON READING the Affidavit Dated 30th day of January, 2015 and Further Affidavit dated 27th February, 2015 of Mr. Balkrishnan Natesan, Authorised Signatory of the Applicant Company, in support of the Summons for Direction and the Exhibits therein referred to, IT IS ORDERED THAT:-

1. The convening and holding of the meeting of the Equity Shareholders of the Applicant Company, for the purpose of considering and if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation amongst Surmee Agencies Private Limited, the Transferor Company with Raheja Universal (Pvt) Limited, the Transferee Company and their respective shareholders and creditors, is dispensed in view of the consent given by both the Equity Shareholders of the Applicant Company, which are annexed as Exhibits "J" and "J-1" to the Affidavit in support of Summons for Direction.

2. That there are no Secured Creditors of the Applicant Company as stated in paragraph 20 of the Affidavit in Support of Company Summons for Direction. Hence, the question of convening and holding meeting of Secured Creditors does not arise.

3. The convening and holding of the meeting of the Unsecured Creditors of the Applicant Company, for the purpose of considering and if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation amongst Surmee Agencies Private Limited, the Transferor Company with Raheja Universal (Pvt) Limited, the Transferee

Company and their respective shareholders and creditors, is dispensed with in view of the consent given by some of the Unsecured Creditors of the Applicant Company, which are annexed as Exhibits “N” to “N-4” to the Affidavit in support of Summons for Direction and averments made in paragraph 23 of the Affidavit in support of the Summons for Direction inter alia, stating that the unsecured creditors of the Applicant Company will be taken over on the same terms and conditions by the Transferee Company and the Transferee Company will deal with the same in ordinary course of business, no prejudice will be caused to the unsecured creditors and that the Applicant Company undertakes to issue individual notices of hearing of the Petition to all its remaining Unsecured Creditors by R.P.A.D. and also publish the same in two local newspapers viz. ‘Free Press Journal’, in English, language and a translation thereof in ‘Navshakti’ in Marathi language both having circulation in Mumbai. The said undertaking is accepted.

4. The Applicant Company is a wholly owned subsidiary of the Transferee Company and all the shares of the Applicant Company are presently held by the Transferee Company, and after the Scheme being sanctioned, no new shares are required to be issued to the members of the Applicant Company by the Transferee Company and the entire share capital of the Applicant Company will stand cancelled and creditors of the Transferee Company will not be affected by the Scheme as per averments made in paragraphs (25) and (27) of the affidavit in support of the Summons for Direction and as per clause 13 of the Scheme and also

in view of the judgement of this Court in Mahaamba Investments Limited Vs IDI Limited (2001) Company Cases 105, filing of a separate Company Summons for Direction and Company Scheme Petition by the Transferee Company i.e Raheja Universal (Pvt) Limited, for sanction of the proposed Scheme of Amalgamation is dispensed with.

5. The Learned Counsel for the Applicant Company states that clause 20 of the Scheme gives power to the Board of Directors of the Applicant Company to modify or amend any part of the Scheme. The Learned Counsel for the Applicant Company states that the Applicant Company has filed further affidavit dated 27th February, 2015 of its Authorised Signatory Mr. Balkrishnan Natesan, inter-alia stating that such power to modify or amend the Scheme is subject to the approval of the High Court. It is therefore clarified that the power vested under clause 20 of the Scheme will be subject to approval of the High Court

(S. J. Kathawalla, J.)