IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

C.P. Nos. 5 and 6 of 2016

M/s. Kudrat Farming Private Limited,
Registered Office:
AP-114, AF Block, 5th Street,
11th Main Road, Anna Nagar,
Chennai-600 040, Tamil Nadu.
Rep by its Authorised Representative,
Mr.Manoj Agarwal. ...Petitioner/Transferor Company
in C.P. No. 5 of 2016.

M/s. Veritas Agro Ventures Private Limited,
Registered Office:
AP-114, AF Block, 5th Street,
11th Main Road, Anna nagar,
Chennai-600 040, Tamil Nadu,
Rep. by its Authorised Representative,
Mr.Manoj Agarwal. ...Petitioner/Transferee Company
in C.P. No. 6 of 2016.

Prayer in both petitions: Petitions under Section 391(2) to 394 of the Act for sanctioning the Scheme of Amalgamation.

For Petitioner : Mr.K.Ramasamy

For Regional Director: Mr.G.Venkatesan,
Senior Central Govt. Standing Counsel

Official Liquidator : Mr. Denny K. Babu
Asst. Official Liquidator

C O M M O N O R D E R

These Company Petitions are filed under Sections 391(2) to 394 of the Companies Act praying for sanctioning a scheme of Amalgamation of the transferor Company, M/s.Kudrat Farming Private Limited with the transferee Company,M/s.Veritas Agro Ventures Private Limited with effect from 1st April, 2015 so as to be binding on all the shareholders of the petitioner Company.

2. The petitioner in C.P.No. 5 of 2016 is the Transferor Company and the petitioner in C.P.No.6 of 2016 is the Transferee Company.

3. A perusal of the records show that the petitioners have complied with the prescribed procedure. The certificate from the statutory Auditor certifying that the company does not have any secured creditors as on 31.10.2015 is produced at page 92 of the typed set of papers. The copy of the resolution dated 16.11.2015 of the Board of Directors adopting the scheme of amalgamation is enclosed as Annexure "5" to the respective petitions.

4. The consent affidavit from the equity shareholders for the scheme of amalgamation and for dispensing with the convening of the meeting of the equity shareholders for approving the scheme of amalgamation is marked at Annexure "8". This Court, by order dated 21.12.2015 in C.A.Nos. 1224 and 1225 of 2015, in the case of the transferor company and the transferee company respectively, dispensed with the convening, holding and conducting of the meeting of the equity shareholders.

5. The Official Liquidator filed a report on 11.03.2016, wherein it is

reported that the Chartered Accountant has verified the books of accounts, memorandum and Articles of Association, Annual report, Compliance Certificates and the Statutory Registers maintained by the Transferor Company. It is further reported that the Directors of the Transferor Company have not committed any misfeasance, diversion of funds, etc.

6. The Regional Director filed an affidavit dated 04.03.2016, wherein it is stated that the Court vide order dated 21.12.2015 in Company Application Nos.1224 and 1225 of 2015 has dispensed with the convening and holding of the meeting of the equity shareholders. It is stated that the transferor and transferee companies have no secured creditors which is confirmed by the certificate of the Chartered Accountant in respect of each company involved in the Scheme. He further reported that the companies are regular in filing the statutory returns and no prosecution filed, no complaints are pending and no inspection has been conducted. It is further stated that the exchem of amalgamation filed with the petitions have been examiend and it has been decided not to make any objection to the scheme except the observation made in para 8 of the affidavit which reads as follows:

> "8) It is respectfully submitted that clause 5.1 of the scheme has stated that the transferee company proposes to issue shares in the ratio of 1:1 with premium if any based on the book value of the shares. The company should have clearly

> stated the premium at which the shares are to be issued to the shareholders o the transferor company. The transferee company may be directed to clarify the same before the Hon'ble High Court."

Thereafter, the matter was adjourned by this Court so as to enable the petitioner to go before the Regional Director to clarify the position. Accordingly, it is stated by the learned counsel for the petitioner that the petitioner has clarified the position with regard to the objection raised by the Regional Director as stated supra. Thereafter, the additional affidavit is filed by the Regional Director dated 23.03.2016, wherein it has been stated that the treatment proposed by the transferee Company in the scheme appears to be in order and this Court can pass orders in the Company Petitions. Learned counsel appearing for the Regional Director today submitted that there is no objection for the Regional Director for sanctioning the Scheme of Amalgamation. The Official Liquidator has already filed the report stating that he is not opposing to grant the scheme of amalgamation.

7. I have perused the report filed by the learned Official Liquidator as well as the affidavit dated 04.03.2016 and the additional affidavit dated 23.03.2016 filed by the Regional Director, and the order passed by this Court dated 21.12.2015, made in Company Application Nos. 1224 and 1225

of 2015 dispensing with the convening and holding of meeting of the equity shareholders of the respective applicant Companies, taking note of the fact that the consent affidavits are filed by the equity shareholders of the company consenting for the scheme of amalgamation.

8. I have also perused the Scheme of Amalgamation filed in the company petitions. The Scheme states that there is no objectionable feature in the Scheme of Amalgamation which is detrimental either to the employees of the transferor Company or of the transferee Company. The said scheme is not violative of any statutory provisions. The scheme is fair, just and sound and is not against any public policy or public interest. No proceedings are pending under Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions are complied with.

9. Considering all these facts and circumstances, and considering the report of the learned Official Liquidator as well as the affidavit and additional affidavit filed by the Regional Director, this Court is of the view that there cannot be any impediment for allowing these Company Petitions. Accordingly, there shall be an order, approving to the Scheme of A.malgamation of the transferor Company M/s. Kudrat Farming Private Limited with the transferee Company M/s. Veritas Agro Ventures Private Limited with effect from 1st April, 2015 as the procedure laid down under Sections 391 and 394 of the Companies Act are duly complied with. The Company Petitions are allowed.

10. Taking note of the report of the Chartered Accountant as enclosed by the Official Liquidator, the transferor company shall stand dissolved without winding up.

11. The learned Central Government Standing Counsel appearing for the Regional Director shall be paid a sum of Rs. 10,000/- from the petitioner Company.

30.03.2016

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K.RAVICHANDRABAABU,J.

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