

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.31308 of 2017

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner company in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the letter in Ref.No.51/2017/ROCH/REC, dated 27.2.2017 on the file of the 3rd respondent for not issuing the NOC for amalgamation of petitioner company with M/s.Sri Brunda Infrastructure Private Limited is illegal, arbitrary and in violation of Article 14 & 19 (i) (g) of the Constitution of India and consequently direct the respondents to issue NOC in favour of the petitioner company to complete the amalgamation process with the M/s. Sri Brunda Infrastructure Private Limited and pass such other order or orders as this Hon'ble Court deemed fit and proper in the circumstances of the case.”

It appears that the petitioner company approached the Syndicate Bank under letter dated 21.02.2017 asking for a No Objection Certificate (NOC) in relation to its proposed amalgamation with M/s.Sri Brunda Infrastructure Private Limited. However, the bank, *vide* letter dated 27.02.2017, expressed its inability to issue a NOC for such amalgamation as no concrete proposal was offered to safeguard the interest of the bank.

At the outset, it may be noted that the petitioner company has no manner of right to insist upon the bank agreeing to an amalgamation. Therefore, no mandamus can be issued to the bank in that regard. It is well settled that unless a right exists, there would be no remedy for enforcement of such right. This is the principle incorporated in the maxim *ubi jus ibi remedium*. Unless a right exists and is not given effect to, there

would be no wrong committed requiring a remedy to be provided therefor. Therefore, the very institution of this writ petition appears to be under the misconception that the petitioner company has a right to insist upon the bank's consent for its proposed amalgamation.

The writ petition is therefore dismissed. We however make it clear that dismissal of this writ petition shall not preclude the bank from considering any concrete proposal put forth by the petitioner company, if it so chooses.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

Dt: 02.08.2018.

Note:-

Issue CC in three days.

(B/o)

IBL



SANJAY KUMAR, J

J. UMA DEVI, J