(2013) 03 KAR CK 0132

In the Karnataka High Court

Case No : Company Application No. 348 of 2013

EMC Data Storage Systems (India) Private Limited — APPELLANT

Vs

NIL — RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Citation : (2013) 3 KarLJ 346

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Saji P. John, for the Appellant;

Final Decision : Allowed

Judgement

Ram Mohan Reddy, J.—This application is by the transferor-Company for an order to dispense with the meeting of its shareholders and creditors for approving the scheme of amalgamation Annexure-F, wherein, the applicant-Company is proposed to be amalgamated with EMC Software and Services India Private Limited, the transferee Company. The particulars of incorporation and the Memorandum and Articles of Association are set out in paragraph 2 of the affidavit of Yasmine Fernandes, D/o. Edmond D'' Souza, the authorised signatory of the applicant-Company. The material particulars relating to the transferee Company are also stated in paragraph 7 of the affidavit. So also, the balance sheet of the applicant-Company made as at 31-3-2012 duly audited while that of the balance sheet of the transferee-Company made as at 31-3-2012 duly audited, are enclosed.

2. The deponent states that all the shareholders of the applicant-Company have extended their consent in writing for the proposed Scheme, Annexure-G Series, and the Board of Directors of the applicant-Company have approved and adopted the Scheme of Amalgamation, in its meeting held on 29-1-2013, subject to be confirmation by this Court, in respect of the applicant-Company and the High Court of Bombay, within whose jurisdiction the transferee-Company is situated.

3. It is further stated that there are no secured creditors of the applicant-Company while unsecured trade creditors, will not in any way be affected by the proposed Scheme and no compromise is being entered into with the creditors pursuant to the Scheme. In addition, it is stated that upon implementation of the Scheme, the combined assets of the transferee-Company post merger being far more than its combined liabilities, the interest of the unsecured trade creditors is taken care of.

Applicant-Company, having placed all the relevant material before Court, there is a need to allow this application.

In the result, this application is allowed. The meeting of the equity shareholders and unsecured trade creditors for considering the Scheme of Amalgamation Annexure-F, are dispensed with.

Petition to be filed within two weeks.