

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY PETITION NO.668 OF 2014

Outdoor Advertising Professionals (India) ... Petitioner
versus
Hirandani Palace Gardens Pvt. Ltd. ... Respondent

Ms. Amrita Soni i/by Mr. Satyan S. Israni, for Petitioner.
None for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 5th FEBRUARY, 2015

P.C.

1. By the above Company Petition, the Petitioner seeks winding up of M/s. Hiranandani Palace Gardens Private Limited (the Company) under Sections 433 (e), 434 and 439 of the Companies Act, 1956. The Company Petition is taken up for hearing and final disposal.

2. According to the Petitioner, the Company had entered into a contract with the Petitioner for an outdoor advertising campaign for two sites in Chennai for a period of two months duration starting from 10th June, 2013 to 9th August, 2013. The Petitioner had raised five invoices on the Company aggregating to Rs. 3,72,247/-, which invoices are annexed and marked as Exhibits C-1 to C-5 to the Petition.

3. The Company failed and neglected to make any payment to the

Petitioner. The Petitioner therefore through its Advocate issued a statutory notice dated 23rd December, 2013 calling upon the Company to pay a sum of Rs. 3,72,247/- to the Petitioner within a period of three weeks from the date of the receipt of the said notice. The Company received the said statutory notice but failed and neglected to respond to the same or to make any payment as called upon therein.

4. The Petitioner therefore filed the present Petition on the ground that the Company is unable to pay its debts and deserves to be wound up. Despite receipt of a copy of the Petition, the Company failed to file its Affidavit in reply or to come forward to oppose the Petition.

5. By an order dated 05-01-2015, the above Company Petition was admitted and directed to be advertised. Para 5 of the said order is relevant and reproduced hereunder :

“5. From the aforestated facts, I am prima facie satisfied that the amount as claimed by the Petitioner is due and payable by the Company to the Petitioner. The Company has failed to respond to the statutory notice or to make any payment as called upon therein. The Company has also not filed its Affidavit in reply despite being served with a copy of the Petition as far back as on 1st December, 2014, as can be seen from the Affidavit of Service dated 1st December, 2014. The Company has not come forward to oppose the above Petition. In view thereof, the statements / submissions made by the Petitioner in the Company Petition have remained uncontroverted and there is no reason why the statements / submissions made by the Petitioner in the Company Petition

should not be accepted. I am therefore prima facie satisfied that the Company is unable to pay its debts and the Company Petition deserves to be admitted and advertised.....”

6. Pursuant to the said order, the Company Petition has been advertised and the Affidavit of publication dated 04-02-2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959 is also served on the Company. Even at this stage, the Company has not filed its reply and has not come forward to oppose the Company Petition. In view thereof, all that is stated in the Petition has remained uncontroverted. For the reasons stated in the order of Admission and herein, I am satisfied that the Company is unable to pay its debt, is commercially insolvent and deserves to be wound up. The Company Petition is therefore, allowed in terms of prayer clauses (a), and (b) which are reproduced hereunder :

“(a) that the Company M/s. HIRANANDANI PALACE GARDENS PRIVATE LIMITED be wound up by and under the directions of this Hon'ble Court under the provisions of the Companies Act, 1956;

(b) that the Official Liquidator or some other fit and proper person be appointed as Liquidator of M/s. HIRANANDANI PALACE GARDENS PRIVATE LIMITED, with all powers under the provisions of the Companies Act, 1956;

7. The Official Liquidator shall forthwith act on a copy of this order without waiting for any Notification.

8. The Company Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)