

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 124 OF 2014

Mohanlal Babulal Sutar

... Petitioner

Versus

M/s. Global Infrastructure and Technologies Ltd. ... Respondent

Mr. S. Patole for the Petitioner.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATE : 12TH FEBRUARY, 2015

PC.:

1. By the above Company Petition, the Petitioner seeks winding up of M/s. Global Infrastructure and Technologies Limited (the Company) on the ground that the Company is unable to pay its debt to the Petitioner.

The Company Petition is taken up for hearing and final disposal.

2. According to the Petitioner, he is a carpenter by profession and based on a work order orally placed by the Company, he has provided the Company with furniture and has carried out certain other repairs and renovation works at the premises of the Company i.e. Mantri Market.

3. According to the Petitioner, an amount of Rs. 4,46,875/- was due and payable by the Company to the Petitioner. However, the Company failed and neglected to make the said payment to the Petitioner. The Petitioner therefore through his Advocate issued a statutory notice dated

17th September, 2013 to the Company calling upon the Company to pay an amount of Rs. 4,46,875/- along with interest accrued thereon at the rate of 18% per annum from 20th April, 2011 within a period of 21 days from the date of receipt of the said statutory notice. The Company through its Advocate sent its reply dated 27th September, 2013 and admitted its liability to pay an amount due to the Petitioner but contended that due to the loss of business and consequential shortage of funds, the Company is unable to pay the said amount to the Petitioner. In view thereof, the Petitioner filed the present Petition seeking winding up of the Company on the ground that the Company is admittedly unable to pay its debts.

4. At the stage of admission of the above Petition, Mr. Anuraj Jain, the learned Advocate appearing for the Company informed the Court that the Company admits the dues payable by it to the Petitioner, however the Company is unable to pay the same and the Company Petition may be admitted. This Court admitted the above Petition by an order dated 15th December, 2014. Paragraph 5 of the said order dated 15th December, 2014 is relevant and reproduced hereunder :

“5. From the aforestated facts, it is established that an amount of Rs. 4,46,875/- is due and payable by the Company to the Petitioner. The Company has admitted the debt due to the Petitioner. I am therefore satisfied that the Company is unable to pay its debts and the

Company Petition deserves to be admitted and advertised. Hence, the following order ...”

5. Pursuant to the said order dated 15th December, 2014, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette. An Affidavit proving publication dated 27th January, 2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959 is waived.

6. From the aforestated facts, it is established beyond any doubt that the Company is unable to pay its debts. For the reasons set out in the order of Admission and herein, I am satisfied that the Company is commercially insolvent and deserves to be wound up. The above Company Petition is, therefore, allowed in terms of prayer clauses (a) and (b), which are reproduced hereunder :

“(a) that the Company viz. Global Infrastructure and Technologies Ltd. having its registered office at S.No. 137/4, Plot No.47, Gururaj Co-Op. Housing Society Ltd., Paud Road, Kothrud, Pune – 411029, may be wound up by an order and direction of this Hon'ble Court under the provisions of Companies Act, 1956 ;

(b) that Official Liquidator, High Court, Bombay or some other fit and proper person be appointed as an

Official Liquidator of Global Infrastructure and Technologies Ltd. with all the necessary powers under the provisions of Companies Act, 1956”.

7. The Official Liquidator to forthwith act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court without waiting for any further notification from this Court or from any other authority.

8. The above Company Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)