

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

COMPANY PETITION NO. 115 OF 2014

Bell Finvest (India) Ltd.

.. Petitioner

Vs.

Whitegold Mercantile Company Private Ltd.

.. Respondent

Mr. Rupesh D. Sohoni for petitioner.

CORAM : K.R.SHRIRAM, J.

DATE : 3RD FEBRUARY, 2016

P.C.

1 The petitioner which is a Non banking Financial Company had extended a loan of Rs.52 lakhs to the respondent to be payable in 12 equated monthly installments. It is the case of the petitioner that within all these 12 EMI's, only 6 EMI's were paid by the company and the company defaulted in payment of the balance amount. The petitioner's debt is not contested at any stage by the respondent. By a reply dated 14.08.2012, the company had merely requested for some more time to repay the loan. As a result of non-payment of this loan despite seeking time, the petitioner issued statutory demand notice on 9.05.2013 demanding a total sum of Rs.31,12,285/- comprising of principal of Rs.20,83,332/- and balance towards accrued interest and late charges in accordance with the agreement. The company has neither complied with the demand nor replied to the statutory notice. The petition was also duly served on the company. Despite service, the

company has not remained present. Therefore, by an order dated 5.10.2015, the petition came to be admitted and was made returnable on 16.11.2015.

2 The petitioner was also directed to advertise the petition in two local newspapers, viz., Free Press Journal in English and Navshakti in Marathi and also in the Maharashtra Government Gazette.

3 The petitioner has filed two affidavits of one Swapnil Tawade, both affirmed on 24.11.2015, confirming paper publication of admission of the petition in Free Press Journal in English and Navshakti in Marathi on 17.10.2015 and also serving a copy of the order dated 14.10.2015 upon the company. As regards the gazette notification, the counsel states that they have made payment to the Government Printing, Stationery and Publications, Government of Maharashtra on 27.10.2015. The counsel undertakes to file an affidavit confirming the same and also annexing thereto the gazette notification within two weeks from today.

4 Notice under Section 28 of the Companies (Court) Rules, 1959 has also been served upon the company as per the service report dated 28.10.2015 placed in the record and proceedings.

5 Even at this stage, nobody is present for the company to oppose the company petition. In view thereof, I am satisfied that the company is unable to pay its debt, is commercially insolvent and deserves to be wound up.

6 The company petition is, therefore, allowed in terms of prayer clause (a) and (b) which read as under :-

(a) That the WHITEGOLD MERCANTILE COMPANY PRIVATE LTD. being the respondent company herein be wound up by and under the Order and directions and supervision of this Hon'ble Court under the relevant provisions of the Companies Act, 1956.

(b) that the Official Liquidator, High Court, Bombay be appointed as Liquidator of the entire assets, properties, affairs and records of the respondent company with all powers under the Companies Act, 1956.

7 The official liquidator, who has been appointed as provisional liquidator, shall forthwith a copy of this order without waiting for any notification.

8 The company petition stands accordingly disposed.

(K.R. SHRIRAM, J.)