

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

COMPANY PETITION NO. 399 OF 2015

Mr.Harvinder Singh

...Petitioner

vs.

M/s.Hathway Cable and Datacom Ltd.

....Respondent

Mr.Bharat B. Merchant with Mr.Ishwar Ahuja for Petitioner.

Mr.Zal Andhyarujina with Mr.Thakore, Ms.Jyoti Ghag and Rajendra Jain

I/b. Thakore Jariwala & Ors. for Respondent.

CORAM : S.C. GUPTE, J.

30 NOVEMBER 2016

P.C. :

This company petition seeks winding up of the Respondent company on the ground of inability to pay its debts. The Petitioner's debt is said to have arisen out of a leave and licence agreement between the parties of 27 November 2000. Clause 3 of the agreement provides for renewal of the licence after every one year upto five years with an increase of 15% of monthly compensation upon such renewal. Accordingly, claims for revised licence fees based on Clause 3 have been made. These claims have been made for the first time by an e-mail of 9 July 2007. The claim is disputed by the Respondent company. The Petitioner has mainly relied upon a reconciliation of account between the parties as of 27 July 2011. It is on the basis of this reconciliation statement that the statutory notice of 25 October 2013 was issued by the Petitioner and on the basis of want of reply from the Respondent, the present petition is filed. It is submitted by the Respondent that this reconciliation statement is signed by an ex-officer of the Respondent, who had already resigned on 18 July 2011. In other words,

according to the Respondent, the reconciliation statement was signed by a person who had no authority to make any statement on behalf of the Respondent. In a companion petition, which was argued along with the present petition, the aspect of the authority of the signatory of the reconciliation statement has been dealt with elaborately. The same person, who has signed the reconciliation statement in that companion petition, namely, Company Petition No.398/2015, has signed the present reconciliation statement.

2 On these facts, the Respondent can be said to have genuine disputes concerning the Petitioner's debt. A disputed debt, such as the present, cannot sustain a winding up petition.

3 In the premises, the petition is dismissed. No order as to costs.

(S.C. Gupte, J.)