

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

**COMPANY PETITION NO.492 OF 2015
WITH
COMPANY APPLICATION NO.568 OF 2016**

Mane Finance Pvt. Ltd. ... Petitioner
Versus
Sri Waterfront Health Farms Pvt. Ltd. ... Respondent

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Mr. Sanjay Jain with Mr. Manthan Unadkat i/b Sudhakar Lakhani for the Petitioner.

Mr. M.S. Doctor, Senior Advocate a/w Mr. Sachin and Mr. Niraj Malviya i/b Divya Shah Associates for the Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 29 NOVEMBER 2016.

P.C. :

. After the matter was heard at some length, it is agreed between the parties that the petition can be disposed of by consent in terms of the following order. Mr. M.S. Doctor, learned Senior Advocate on behalf of the Respondent, submits to this order on the basis of instructions given by Mr. Vijay Chhotalal Kamdar, Director of the Respondent, who has also affirmed the Respondent's affidavit in reply to the Company Application. The petition is accordingly, disposed of in the following terms :

- (i) The Respondent undertakes to hand over to the Petitioner vacant and peaceful possession of the properties described in Schedule-2 to the loan agreement being Exhibit-B to the petition within a period of four weeks

from 15 December 2016;

(ii) The Petitioner shall be entitled to sell the properties and recover the loan amount due and payable by the Respondent to the Petitioner in terms of the loan agreement being Exhibit-B to the petition. Such sale shall be conducted in accordance with the terms and conditions of the loan agreement as well as the deed of mortgage and in keeping with Sections 69 and 69A of the Transfer of Property Act;

(iii) The Petitioner shall, after appropriating the outstanding dues in terms of the loan agreement and the mortgage deed, make over the balance net sale price to the Respondent;

(iv) In case vacant and peaceful possession of the properties described above is not handed over by the Respondent to the Petitioner within four weeks as mentioned above, the Company Petition to stand revived and admitted. The petition, in that case, be placed before the Court for directions, when a returnable date can be fixed for hearing of the petition;

(v) In view of the disposal of the company petition, the company application does not survive and the same is also disposed of. The Petitioner shall, in case of revival of the

company petition, be entitled to take out appropriate company application for similar reliefs;

(vi) No order as to costs.

(S.C.GUPTE, J.)