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

COMPANY PETITION NO.616 OF 2015

Kotak Mahindra Bank Ltd.	...Petitioner
V/s.	
M/s.A E Infra Projects Pvt. Ltd.	...Respondent

Ms.Pruna Mulani i/b Mr.Mangesh Patel for the Petitioner.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 6TH FEBRUARY, 2017.

P.C. :-

1. Learned counsel appearing for the petitioner states that the respondent is served. Affidavit of service is already filed. None appeared for the respondent.
2. By this petition, the petitioner seeks winding up of the respondent on the ground that the respondent is unable to pay its debts.
3. In the month of October, 2013, the petitioner had sanctioned a loan of Rs.20,00,000/- in favour of the respondent and has entered into an agreement with the respondent. The respondent had also executed a demand promissory note in favour of the petitioner on 21st October, 2013 thereby promising the petitioner to

pay the entire amount with interest. The respondent also executed a Personal Loan Cum Guarantee Agreement on 21st October, 2013 in favour of the petitioner. It is the case of the petitioner that the entire amount was repayable with interest in equated monthly installments.

4. The respondent though paid some installments, failed to pay the balance amount. The petitioner had annexed the copy of the statement of account.

5. The petitioner issued a statutory notice on 30th January, 2015 demanding a sum of Rs.10,30,633.50 ps. with further interest thereon. The said statutory notice was served upon the respondent. There was no response to the statutory notice nor any payment was made by the respondent to the petitioner. The petitioner thus has filed this petition *inter-alia* praying for winding up of the respondent company.

6. No affidavit in reply has been filed. I have perused the documents annexed to the petition and have heard the learned counsel for the petitioner. A perusal of the documents annexed to the petition indicates that the respondent had sanctioned a loan of Rs.20,00,000/-. The respondent however, had committed default in repayment of the loan amount. There is no response to the statutory notice. In my view, the respondent has committed default in making repayment of the loan amount.

7. In my view, the respondent is unable to pay its debts and is commercially insolvent.

8. I therefore, pass the following order :-

i). The company petition is admitted and shall be advertised in two local newspapers, namely (i) Free Press Journal (in English) and Navshakti (in Marathi) as also in the Maharashtra Government Gazette. Any delay in publication of the advertisement in the Maharashtra Government Gazette, and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute non-compliance with this direction or with the Companies (Court) Rules, 1959.

ii). The company petition is made returnable on 3rd April, 2017. The petitioner shall deposit Rs.10,000/- towards publication charges with the Prothonotary & Senior Master, under intimation to the Company Registrar, within two weeks from the date of admission, failing which the petition shall stand dismissed for the non-prosecution without further reference to the Court. After the advertisements are issued, the balance, if any, shall be refunded to the petitioner.

(R.D. DHANUKA, J.)