

Nalawade

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

COMPANY PETITION NO. 695 OF 2014

M/s. M.L.Arts.

..Petitioner.

vs.

M/s. Jeevan Shanti Waste Management
Pvt. Ltd.

..Respondent.

Ms. Devki R.Sahu i/by A. M. Sarogi for the Petitioner.
None for the Respondent.

CORAM :A.S.GADKARI, J.

DATE : 22nd June, 2017

P.C.

1. This is a petition for winding up of the respondent company namely M/s. Jeevan Shanti Waste Management Pvt. Ltd. on the ground that the respondent is unable to pay the debt of the petitioner.

The petitioner is a partnership firm. The respondent company offered the petitioner for appointment of its dealer. By a letter dated 26.3.2012 the respondent appointed the petitioner as its dealer for the territory of Kolhapur District. The distribution agreement dated 10.4.2012 has been executed to that effect. As per the agreement the petitioner deposited a sum of Rs.6,05,000/- with the respondent company. The respondent company failed to comply with its part of obligation thereby assigning the distribution rights to the petitioner. The petitioner therefore demanded for refund of the said

deposit amount of Rs.6,05,000/-.The petitioner entered into correspondence with the respondent thereby demanding the refund of the deposit amount. As the respondent failed and neglected to refund the afore-stated deposit amount to the petitioner, the petitioner issued a statutory notice dated 4.5.2014 to the respondent. The respondent duly received the said notice however, neither replied the same nor repaid the said amount.

2. The petitioner therefore, filed the present petition on 7.7.2014. The petition was accepted on 10.11.2014. As the respondent could not be served, despite the petitioner's attempt, this Court by its order dated 5.12.2016 permitted the petitioner to serve the respondent by substituted service by publishing it in two local newspapers. The petitioner has accordingly served the respondent by substituted service and has filed an affidavit of service dated 11.1.2017 to that effect. Despite service none appears for the respondent.

3. I have perused the petition and it prima facie appears that the respondent company is unable to pay the debt of the petitioner.

4. Hence, the following order.

i) The Company Petition is admitted and made returnable on 10.8.2017.

ii) The petitioner is 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. 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.

iii) The petitioner shall also deposit an amount of Rs.10,000/-with the Prothonotary and Senior Master of this Court with intimation to the Company Registrar towards publication charges, within a period of two weeks from the date of this order, failing which the petition shall stand dismissed for non prosecution without further reference to the Court.

iv) Notice under Rule 28 of the Companies (Court) Rules, 1959 be served upon the respondent company.

v) S.O. to 10.8.2017.

(A.S.GADKARI, J.)