

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

**APPEAL NO.334 OF 2017
IN
COMPANY PETITION NO.419 OF 2015**

Nasir Amin Hungund Appellant
versus
M/s. Glasspaane Aluminium (I) Pvt. Ltd. ... Respondent
.....

- Mr.Nirman Sharma, a/w. Mr.R.P. Jain, i/b. Alpha Chambers, Advocate for the Appellant.
- Ms.U.K. Srivastava i/b. Consulta Juris, Advocate for the Respondent.

**CORAM : SMT. VASANTI A. NAIK &
SARANG V. KOTWAL, JJ.
DATE : 20th DECEMBER, 2017.**

P.C. :

The learned counsel for the appellant states that while dismissing the petition filed by the appellant for winding up of the respondent-company, the learned Single Judge has recorded some findings in respect of the limitation to make the claim for the dues. It is submitted that the said findings would come in way of the appellant, if the appellant avails the remedy of filing the suit against the respondent for recovery of the amount due.

We find that the apprehension expressed by the learned counsel for the appellant is not well founded. The learned Single Judge

has observed that disputed questions that arise in the Company Petition cannot be dealt with in the winding up petition. The findings recorded by the learned Single Judge in the order appealed against that the claim of the petitioner was barred by the law of limitation, would not bind the parties in a suit that may be filed by the appellant, if permissible in law, as in a suit the parties would be entitled to tender the evidence both oral and documentary to prove the issue of limitation.

The learned counsel for the respondent also does not dispute this position of law.

Hence, with the aforesaid observations, we dispose of company appeal with no order as to costs.

(SARANG V. KOTWAL, J.)

(SMT. VASANTI A. NAIK, J.)