

Nalawade

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

COMPANY PETITION NO. 939 OF 2015

Mr. Purshottam Behra. ...Petitioner.
vs.
Max Natural Gases Pvt. Ltd. ...Respondent.

Mr. Sachin B. Mhaske for the Petitioner.
Mr. Omar K. Shaikh 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 on the ground that the respondent company is unable to pay the debt of the petitioner.

The petitioner was awarded sub contract by the respondent company for carrying out the plumbing work at its site at Vikhroli and Mulund. It is the case of the petitioner that during the course of the said work which was undertaken by the petitioner, the respondent company also directed him to carry out the work at the site situated at Kalyan. The work which has been carried out at the site at Kalyan was amounting to Rs.1,63,587/- and the said amount has not been paid by the respondent to the petitioner.

2. The learned counsel for the respondent company submitted that as a matter of fact the respondent company was never awarded with the contract of site at

Kalyan by Mahanagar Gas Limited and therefore, there is no question of directing the petitioner to carry out the work at the site at Kalyan. The learned counsel for the respondent invited my attention at Page 51 of the petition wherein the respondent has given summary of the bills indicating the bill amount, date and receipt of the amount therein. It appears that out of the total amount of Rs.16,95,476/- the respondent company has already paid an amount of Rs.15,36,889/- and the petitioner has acknowledged for the same. It was pointed out that item Nos. 1 and 2 (Kalyan) mentioned therein are pertaining to the total amount of Rs.1,65,000/- and as stated above the respondent is disputing the said claim of the petitioner.

3. It prima facie appears that the respondent company is solvent and as per record has in fact made payment to the petitioner to the tune of Rs.15,36,889/-. In view thereof, I am inclined to relegate the petitioner to adopt the appropriate remedy for recovery of the said balance amount before the competent Court of jurisdiction, if so advised. It appears that there are disputed questions of facts giving rise to the triable issues as the liability is not admitted by the respondent.

4. Petition is accordingly dismissed.

(A.S.GADKARI, J.)