

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

COMPANY PETITION NO.156 OF 2014

Kotak Mahindra Bank Limited .. Petitioner
Vs.
Seeyan Engineering Company Pvt.Ltd. .. Respondent

Ms.Priyanka Fadia i/by Mr.Shashank N. Fadia for the petitioner.
None for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 2nd February 2017

P.C. :

. Ms.Fadia, learned counsel appearing for the petitioner tenders an affidavit of proving publication of advertisement of the petition in the two local newspapers and also in the Maharashtra Government Gazette pursuant to the order dated 12th October 2015 passed by this Court. None appears for the respondent. No affidavit-in-reply is filed.

2. By this petition, the petitioner seeks winding up of the respondent-company on the ground that the respondent is unable to pay its debts.

3. The respondent availed of three different loans from the petitioner in the aggregate sum of Rs.58.50 lakh for obtaining construction equipments and executed various documents in favour of the petitioner.

4. It is the case of the petitioner that as on the date of filing of this company petition, the respondent is liable to pay a sum of Rs.44,48,505.41 with further interest thereon with effect from 24th June 2013. It is the case of the petitioner that since the respondent has committed default in making repayment of the said loans advanced by the petitioner, the petitioner has issued a statutory notice on 24th June 2013.

5. A perusal of Exhibit-'H' annexed to the company petition indicates that the respondent was served with a statutory notice. There was no reply to the said statutory notice. The petitioner thus filed this company petition inter alia praying for winding up of the respondent-company. None appeared for the respondent even at the admission stage. By a detailed order dated 12th October 2015 passed by Shri Justice S.C. Gupta, this company petition came to be admitted. Pursuant to the said order, the petitioner has already advertised the petition in the two local newspapers and also in the Maharashtra Government Gazette.

6. I have perused the averments made in the company petition and the documents annexed to the petition. There is no response to the statutory notice. No affidavit-in-reply is filed. A perusal of the documents indicates that the petitioner has advanced various amounts to the respondent which the respondent has failed to repay. I am therefore of the view that the respondent is unable to pay its debts and is commercially insolvent.

7. I therefore pass the following order :-

- (i) Company petition is made absolute in terms of prayer clauses (a) and (b). No order as to costs.
- (ii) The Official Liquidator to act on the authenticated copy of this order.

R.D. DHANUKA, J.