

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

COMPANY PETITION NO.160 OF 2015

Nanda Pishu Dadlani	..	Petitioner
Vs.		
Paradyne Infoservices Pvt. Ltd.	..	Respondent

Ms.Rekha Shukla for the petitioner.

Mr.Rajendra Jain i/by M/s.Thakore Jariwala & Associates for the respondent.

Ms.Yogini Chauhan, Deputy Official Liquidator present.

CORAM : R.D. DHANUKA, J.

DATE : 6th January 2017

P.C. :

. By this petition, the petitioner has prayed for winding up of the respondent-company and for appointment of the official liquidator.

2. The petition is placed on board for 'hearing and final disposal.' It was the case of the petitioner that the respondent-company for valuable consideration drew a Bill of Exchange executed on behalf of the company by its Director on 1st December 2012. It was the case of the petitioner that interest was agreed to be paid at the rate of 18% per annum. Since the company committed default in repayment of the principal sum and interest, the company issued a statutory notice on 13th September 2013. The respondent had issued a cheque for interest in the sum of Rs.1,21,500/- on 15th April 2013 which was dishonoured. The company had also issued a cheque for Rs.30 lakh dated 14th July 2013 towards the principal sum which also came to be dishonoured for want of funds on or about 13th August 2013.

3. By a detailed order dated 4th October 2016 passed by this Court, the aforesaid company petition is admitted and was made returnable after six weeks. The petition came to be advertised by the petitioner in compliance with the said order dated 4th October 2016. This Court also appointed official liquidator as provisional liquidator of the respondent-company with a direction to take charge of the assets/properties and records of the respondent-company without awaiting any notification. The respondent had filed affidavit-in-reply before this Court on 27th June 2016.

4. Learned counsel for the petitioner invited my attention to the averments made in the petition and annexures thereto. She submits that the cheques issued by the respondent are dishonoured. The respondent company is thus unable to pay its debts. My attention is also invited to the detailed order passed by this Court on 4th October 2016 while admitting the company petition.

5. Learned counsel appearing for the respondent, on the other hand, submits that the respondent-company had already paid an aggregate amount of Rs.12,45,500/-. He however admits that the said amount is paid under the said Bill of Exchange.

6. The next contention of the learned counsel is that the purported claim is time barred. It is not in dispute that the bill of exchange was drawn by the respondent. The petition had presented the said bill of exchange which was dishonoured. Various cheques issued by the respondent were dishonoured, it is not in dispute that the said cheques

were issued during the period of three years from the date of presentation of the said bill of exchange. Limitation is thus extended.

7. Learned counsel appearing for the respondent did not press any other issue raised in the affidavit-in-reply.

8. In my view, the defence of the respondent-company in the affidavit-in-reply is totally moonshine and frivolous. For the reasons set out in the order dated 4th October 2016 and herein, I am satisfied that the respondent-company is unable to pay its debts, is commercially insolvent and deserves to be wound up.

9. I therefore pass the following order :-

- (i) The company petition is allowed in terms of prayer clauses (a) and (b).
- (ii) The official liquidator to forthwith act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court without waiting for any further notification from this Court or from any other authority. No order as to costs.

R.D. DHANUKA, J.