

COMPANY PETITION NO.339 OF 2016

....Petitioner

V/s.

....Respondent

— — —

Ms.Smita Sawant i/by Dave & Co. for petitioner.

Mr.Ashok Kumar Singh for respondent.

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CORAM : K.R.SHRIRAM,J

DATE : 6.10.2017

P.C.:-

1 This petition is filed under sections 433 & 434 of the
Companies Act 1956 seeking winding up of the respondent.

2 It is the case of the petitioner that he was a monthly tenant in respect of flat no.6, admeasuring 340 sq. feet carpet area of the 1st floor of the building viz. Sai Leela building, Natwar Nagar, Road No.5, Jogeshwari (East), Mumbai 400 060. It is the case of the petitioner that the respondent approached the tenants of the said Sai Leela building including the petitioner with a request to co-operate for redevelopment of the said building. The petitioner along with other tenants agreed and entered into a redevelopment agreement dated 1.12.2012 together with details of permanent alternate accommodation. The agreement was registered and the petitioner shifted to an alternate accommodation. Post dated cheques towards

compensation for alternate accommodation, shifting etc. were also given. It is the case of the petitioner that the respondent on receipt of Occupation Certificate should have given intimation in writing within a period of 15 days but respondent even though received full Occupation Certificate on 27.4.2015 did not intimate the petitioner. According to the petitioner if the project did not get completed by October-2014, the respondent was to pay to the petitioner as compensation for alternate accommodation at double the rate agreed. Rate agreed was Rs.19,360/-. According to the petitioner possession was handed over to the petitioner only on 20.6.2015 and therefore, the petitioner is entitled to double the amount of Rs.19,360/- upto the date of possession from October-2014. According to the respondent possession was given in April-2015 and in any event, double compensation was not payable.

3 I have considered the reply filed by the respondent and also heard the counsel. In my view, disputed questions of facts have been raised by the respondent and the court cannot come to a conclusion that there is an admitted debt on the part of the respondent.

4 In the circumstances, petition stands dismissed.

(K.R.SHRIRAM,J)