

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

COMPANY PETITION NO.473 OF 2015

Nikhil Ashok Doshi)....Petitioner
V/s.

Agile Financial Technologies Pvt. Ltd.)....Respondent

Mr.Sagar Sheth a/w Ms.Nikita Hinger for petitioner.
Dr.Abhinav Chandrachud a/w Mr.Kunal Chheda i/by M.V.Kini and Co.
for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 23.7.2018

P.C.:-

1. Petitioner is seeking to wind up respondent company Agile Financial Technologies Pvt. Ltd. (the company) on the grounds that the company is unable to discharge its debts and commercially insolvent.

2 It is the case of petitioner that he was employed as Senior Presales Manager in the company on the terms and conditions particularly mentioned in the appointment letter dated 26.4.2012. Petitioner has stated that he had worked in the Bombay office from 14.5.2012 to 30.6.2012 and in the Dubai office from 2.7.2012 to 3.9.2012. He resigned on 3.9.2012 and the relieving letter was dated 6.9.2012. The claim of petitioner was basically towards unpaid salary.

Counsel relied upon various communications also annexed to the petition. The core issue that arises is which is the company that is liable.

3 Dr.Chandrachud for the company submitted that petitioner was not employed by the company but was employed by a group company called Agile Fin Tech, FZ-LLC, and if at all petitioner has any claim, it will be against the said UAE company and not the respondent company. Even relieving letter dated 6.9.2012 at Exh.J has been issued by UAE company.

4 Mr.Sagar Sheth for petitioner in rejoinder relied upon clause-11 of the appointment letter to submit that clause-11 provides the company shall have the right to transfer petitioner to any of its locations/departments/offices anywhere in India and abroad and in such case, petitioner will be governed by such terms and conditions of service applicable to the new assignments. Counsel states that petitioner had joined in Mumbai first before shifting to Dubai and hence the liability will be that of the respondent company.

5 Heard the counsel and also perused the petition, documents annexed thereto, the reply and the rejoinder.

6 The appointment letter relied upon by petitioner is from Agile Fin Tech FZ-L.L.C., the UAE company and not respondent company. The compensation agreed was basic salary of (UAE Dirhams) AED 10,000 per month, Housing allowance of (UAE Dirhams) AED 5,000/- per month and Car allowance of (UAE Dirhams) AED 4,000/- per month in Dirhams and not rupees. The other perquisites were entitlement to 30 days paid vacation on completion of each year of service with the organization, excursion fare air ticket for self and family for UAE-India (Mumbai)-UAE for each annual vacation, medical insurance and, Gratuity as per UAE law. Even the relieving letter is issued by Agile Fin Tech FZ-LLC, UAE. Just because the company has retained its right to transfer petitioner to any place of its choice, and the petitioner joined initially for six weeks in Mumbai does not mean that the liability will be that of the company.

7 In the circumstances, petition is not maintainable. Petition dismissed with no order as to costs.

Jahagirdar
Kiran
Ganesh

(K.R.SHRIRAM,J)

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Jahagirdar Kiran
Ganesh
Date: 2018.07.25
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