

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO.362 OF 2016**

Harish B. Shah

....Petitioner

Vs.

Royal Palms (India) Pvt. Ltd.Respondent

Mr. Vyom Shah a/w. Ms. Archana Karmokar and Ms. Shraddha Ambre i/b.
Divya Shah Associates for petitioner.

Mr. Siddharth Mataliya i/b. Intralegal for respondent.

CORAM : K.R.SHRIRAM, J.

DATE : 13th FEBRUARY, 2018

PC.:

1 By this petition, petitioner is seeking winding up of respondent company – Royal Palms (India) Pvt. Ltd. (the Company) under the Companies Act, 1956.

2 Petitioner became a member of Royal Palms Country Club. Though in the petition, it is not explained the relationship between Royal Palms Country Club and the company, the counsel for respondent company states that in the rejoinder, it is stated that the company has taken over the liability of the Club.

3 According to petitioner, he became member of the Club on 28th December, 1996 and paid a security deposit of Rs.5 lakhs. The membership was valid for 15 years and it came to an end on 27th December, 2011. Petitioner has written to the company to return the security deposit of Rs.5 lakhs which the company did not and on the

contrary, company has raised, according to petitioner, bogus demands of non payment of dues by petitioner. It should be noted that the refund, according to petitioner, was to be made at the time of expiry of 15 years. Therefore, the refund became due on 27th December, 2011. Petitioner also caused a statutory notice dated 12th July, 2014 in which at paragraph 4 it is stated *“Our client states that our client's membership with the said Club expired by efflux of time on 27th December, 2011 or thereabout and consequently the said deposit amount became due for refund.”* Therefore, the cause of action began on or about 27th December, 2011. Petition itself has been lodged on or about 2nd May, 2016 much after the three years period expired. Moreover, the company in response to the statutory notice, has informed petitioner that there are large arrears payable by petitioner to the company amounting to approximately Rs.4,66,949/- which company will adjust against the security deposit.

4 Mr. Shah, counsel for petitioner states that only for the last four years petitioner did not pay the maintenance amounts payable because he was dissatisfied with the services provided by the company.

5 This, apart from limitation being an issue, raises a disputable question of fact. In the circumstances, petition stands dismissed with no order as to costs.

(K.R. SHRIRAM, J.)