

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 268 OF 2013**

K. Mangala Moorthy	...Petitioner
<i>Versus</i>	
M/s. Mission Vivacare Limited	...Respondents

Ms. K.C. Nichani, *with Mr. Kumar D. Nichani for the Petitioner.*
Ms. Manisha Poladia, *with Mr. Punjabi ilby M/s. Apex Law Partners,*
for the Respondents.

CORAM: G.S. PATEL, J
DATED: 30th April 2014

PC:-

1. This matter has been settled. Consent terms are tendered. These consent terms have been signed by: (a) the Advocates for the parties; (b) the petitioner; and (c) one Mr. Akshay Mehta, the Managing Director on behalf of the Respondents. There are handwritten changes in the consent terms. These have been MADE by the advocates for the parties and have been initialed by them in Court. The consent terms are taken on record and marked 'X' for identification. The undertakings in the consent terms are accepted as undertakings to this Court.

2. Ms. Nichani points out that clause 3 of the consent terms does not contain a complete order providing of an event of default. By consent, Clause 3 of the consent terms is substituted as follows:

3. In the event of any one default in payment of any of the above instalments mentioned in clause (2) herein above:

- (i) The petition shall thereupon revive and stand admitted without further reference to the Court, returnable within four weeks from the date of such default.
- (ii) Service of the petition under Rule 28 of the Companies (Court) Rules, 1959 shall be deemed to have been waived.
- (iii) The petition shall be advertised in two local newspapers, namely, (i) Free Press Journal (in English), and (ii) Navshakti (in Marathi) as also in (iii) the Maharashtra Government Gazette. Any delay in publication of the advertisement in the Maharashtra Government Gazette, and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute non-compliance with this direction or with the Company (Court) Rules, 1959.
- (iv) The petitioners shall deposit Rs.10,000/- toward publication charges with the Prothonotary and Senior Master, under intimation to the Company Registrar, within two weeks from the date of admission, failing which the Petition shall stand dismissed for non-prosecution without further reference to the Court. After the

advertisements are issued, the balance, if any, shall be refunded to the petitioners.

3. The company petition is disposed of accordingly.

(G. S. PATEL, J.)