

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 863 OF 2015

M/s.Aristo Adhechem (India) Pvt.Ltd. And others. ... Petitioners.
V/s.

M/s.International Asset Reconstruction Company
Private Limited. ... Respondents.

Rajahs Kachare with Ms.Reena Salunke i/b. Sunil Humbre
for the petitioners.

Rohit Gupta with Nikhil Rajani i/b. V.Deshpande and Co.
for the respondent.

**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

DATED : 2nd July 2015.

P.C.

Heard.

2. The petitioner has challenged the order dated 18th December 2014 passed by Debt Recovery Appellate Tribunal (DRAT) in M.A.No.623/2014. The respondent had filed Original Application No.553/2002 for issuing recovery certificate. Vide order dated 9th October 2009, recovery certificate was ordered to be issued as per consent terms. The petitioner failed to deposit the amount as per the agreement reached between the parties and the consent terms. The petitioner filed appeal before DRAT being Appeal No.176/2010. Vide order dated 8th August

2012 DRAT allowed appeal and remanded the matter to DRT. On 14th July 2014, DRT allowed the application directing the appellants to make payment of Rs.42,71,42,031.75 with further interest less Rs.62,38,873/- already paid by the appellant/ petitioner herein. The petitioner preferred appeal being Appeal No.167/2014 against the order passed by DRT. In the said appeal, Misc.Application No.623/2014 was filed for waiver of amount under section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (DRT Act). By impugned order dated 18th December 2014, DRAT disposed of the said application directing the petitioner herein to deposit Rs.12 crore within six weeks. In case of petitioner's failing to deposit aforesaid amount, the appeal was not to be entertained and was to be dismissed.

3. Being aggrieved by the said order, petitioner/ appellant therein has filed present petition.

4. The learned counsel appearing for the petitioner submits that against the suit claim of Rs.5.11 crore, the respondent demands huge amount of Rs.44 crore. The petitioner be allowed to raise appropriate issues before appropriate forum. In absence thereof the petitioner would be prejudiced and would suffer serious financial loss and irreparable damage. Learned counsel submits that in case some reasonable amount is directed to be deposited, the petitioner would consider the same. It is, however, submitted that in the present scenario it is not possible for the petitioner to deposit Rs.12 crore.

5. Learned counsel appearing for the respondent submits that initially the petitioner had borrowed loan from Bank of Baroda. The Bank of Baroda assigned the debt to the respondent in the year 2008. Since then the respondent is making every possible effort to recover the said amount. It is submitted that according to the agreement and the terms of contract, entire outstanding would be more than Rs.100 crore, which figure is disputed by learned counsel for the petitioner.

6. During the course of hearing, we had granted opportunity to the petitioner to take further instructions as to whether the petitioner is in a position to deposit some reasonable substantive amount so that indulgence can be shown by this Court. After taking instructions, learned counsel for the petitioner submits that he is not in a position to make a concrete statement in respect of amount to be deposited before DRAT. It seems that the petitioner is not in a position even to deposit reasonable amount with DRAT. The recovery is huge and in view of the fact that the issue is pending since long, we are not inclined to interfere with the matter any further. The petitioner has failed to demonstrate willingness to make effort to deposit some reasonable amount.

7. Writ petition is dismissed.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)