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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 1795 OF 2015

M/s. Arya Diamonds Jewellery Pvt. Ltd. ... Petitioner
Vs.
Corporation Bank ... Respondent

Mr. Mayur Khandeparkar a/w Puneet Gogad, for the Petitioner.
Mr. Kevic Setalwad, Sr. Counsel a/w i/b M. V. Kini & Co., for
Respondent.

CORAM : V. M. KANADE, &
A. R. JOSHI, JJ.

DATE : MARCH 30, 2015

PC.

1. Petitioner is aggrieved by an order passed by the DRAT dated 23.12.2014. By the said order, the Petitioner has been directed to deposit a sum of Rs. 6.5 Crores for the maintainability of the appeal. Learned counsel appearing on behalf of the Petitioner has raised the several issues. It is an admitted position that the Application which has been filed before the DRT is still pending. Firstly, it is submitted that the action of taking possession has been taken prior to the expiry of 60 days Secondly, it is submitted that

publication under Rule 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002, has not been done. Thirdly, it is submitted that the property valued and the reserve price fixed, was at the same rate and the asset was also sold at Rs. 9.65 Crores, without seeking consent of the borrower as is required under the proviso to Rule 9(2) of the Security Interest (Enforcement) Rules, 2002. Fourthly, it is submitted that under Rule 9(3) and 9(4), the auction purchaser has to deposit immediately twenty-five per cent of the amount of the sale price and the balance seventy-five per cent has to be deposited within fifteen days. This rule is also not adhered to. The purchaser has deposited twenty-five per cent of the sale price and this fact is also not considered by the DRAT. Learned counsel appearing on behalf of the Petitioners has not pressed the prayer clauses (b) and (c).

2. On the other hand, the learned counsel appearing on behalf of the Respondent-Bank submitted that sale price of the property is Rs. 9.65 Crores, though the amount claimed is Rs. 14,90,12,039.92 Ps. and the DRAT has rightly directed the Petitioner to deposit a sum of Rs. 6.5 Crores. It is submitted that other issues which are raised by the Petitioner will have to be decided on

merits before the DRAT.

3. In our view, there is much substance in the submission made on behalf of the Respondent-Bank. At this stage, we are not inclined to go into merits of the case on the question whether the amount directed to be deposited by the Petitioners is proper or not. It is not in dispute that Rs.14,90,12,039.92 was claimed by the Bank. The amount of Rs. 6.50 Crores is less than the fifty percent of the amount claimed by the Bank. We, therefore, do not propose to interfere with the said order. We, however, direct that the DRAT may decide the application filed by the Petitioner, as expeditiously as possible, preferably within a period of six months. With this direction, writ petition is disposed of.

Sd/-
[A. R. JOSHI, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath