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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 3670 OF 2015

M/s. ABG Shipyard Ltd. ... Petitioner
Vs.
DCB Bank Ltd. ... Respondent

Ms. Fatema Barodwalla a/w Rishabh Shah i/b Rawal Shah & Co., for
the Petitioner.

Mr. M. P. Rao, Sr. Counsel a/w R. L. Singh i/b M. V. Kini & Co. for
Respondent.

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

DATE : APRIL 15, 2015

PC.

1. Heard the learned counsel appearing on behalf of the
Petitioner and the learned counsel appearing on behalf of the
Respondent. Petitioner is aggrieved by an order passed by the DRAT,
dismissing the appeal, in which order passed by the DRT issuing
summons to the deponent of the affidavit, who has admitted the claim
of the Bank for recovery of Rs. 44 Crores, was challenged.

2. The learned counsel appearing on behalf of the Petitioner
submitted that the DRAT has observed that the Petitioner has to
examine the responsible person of the Defendant company such as
Chairman, Managing Director, and thereafter the concerned deponent
should be examined from the side of the Respondent.

3. Brief facts are that, the Bank has filed O. A. for recovery of Rs. 44 Crores against the Petitioners. After the O. A. was filed by the Bank, the Defendant No. 1 by their reply dated 19.3.2014 admitted the claim in the O. A. Thereafter an application was filed, requesting the Court to pass a decree on the basis of admission given by Defendant No. 1. Thereafter a fresh affidavit was filed on the basis of coercion and undue influence. The DRT issued summons to the person, who has filed the affidavit. Being aggrieved by the said order, Petitioner approached before the DRAT. We do not see any reason to interfere with the said impugned order passed by the DRAT, since the DRT has observed that it is for the Bank to examine the responsible person of the Defendant Company for the purpose of establishing the fact that admission was obtained by the Bank Official not by coercion. Reliance is placed on the judgment of the Apex Court in the case of – **Kalyan Kumar Gogoi, Appellant Vs. Ashutosh Agnihotri & Anr., Respondents [AIR 2011 SC 760]**. In our view, ratio of the said judgment does not even remotely apply to the facts of the present case. Hence, writ petition is dismissed.

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

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