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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) No. 10470 OF 2015

Singh Sanjay Shyamdeo

...Petitioner

Vs.

Abhyudaya Co-operative Bank Ltd.

...Respondent

Mr.Prathamesh Kamat with Mr.Vivek V. Phadke i/b. Kaikini Phadke and
Associates for Petitioner

CORAM : V. M. KANADE &
G.S. KULKARNI, J.J.

DATE : APRIL 13, 2015

P.C. :

1. Not on Board. Upon mentioning, the matter is taken on the Board.

2. The grievance of the Petitioner is that the Petitioner was directed by the DRAT to pay Rs.6 lacs on or before 27.2.2015. It is submitted that on account of financial constraints, the said amount could not be paid.

3. The learned counsel appearing on behalf of the Petitioner submits that the demand draft for the said amount is ready and that he shall deposit the said demand draft in the name of the Registrar, D.R.T.- II, Mumbai. It is submitted that the direction may be given to the Bank not to take the physical possession of the property which is mortgaged.

(Wpst 10470 of 2015)

4. On the other hand, the learned counsel appearing on behalf of the Bank submits that this is a third occasion on which, the Petitioner on one pretext or the other seeking stay to the possession being taken by the Bank. It submitted that the bank has incurred expenditure on account of advertisement and payment of fees to the Registrar. It is further submitted that the DRAT, therefore, could not extend the time which was granted by D.R.T. II, Mumbai to deposit the said amount as and by way of interim relief.

5. In our view the fact that the Petitioner has now got the demand draft for the said amount which was directed to be paid by the DRAT. We permit the Petitioner to deposit the said demand draft in the name of the Registrar, D.R.T. -II, Mumbai during the course of the day. In view of this, the bank is restrained from taking possession of the secured assets. However, if the said amount is not deposited with the Registrar, D.R.T.-II, Mumbai, this stay order shall stand cancelled and the Bank is at liberty to take possession of the property. The DRT-II, Mumbai, however, shall direct the Petitioner to reimburse the costs which is incurred by the bank as per the actuals for taking possession of the property on the last three occasions. The DRT-II may decide the application as expeditiously as possible within two months, if available. With these directions, the writ petition is disposed of.

[G.S. KULKARNI, J.]

[V. M. KANADE, J.]