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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3998 OF 2015

Rangara Industries Private Limited and Ors.Petitioners
Vs.
State Bank of IndiaRespondent

Mr. Manish P. Gitay for Petitioners
Mr. Prakash Punjabi i/b. Prakash Punjabi and Co.

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

DATE : APRIL 18, 2015

P.C. :

1. This is a second petition filed by the Petitioners. In the first petition, the Petitioners had challenged the order dated 13.4.2014 passed by the Learned Chief Metropolitan Magistrate under section 14 of the SARFAESI Act; the said petition was heard at length and was dismissed. Thereafter, the Petitioners approached the DRT-III, Mumbai against the order passed by the CMM and an application for interim relief was filed by them. The said matter was heard at length and application for interim relief was rejected by the DRT-III. The Petitioners approached the DRAT. It is contended that the DRAT has kept the matter on 21st April, 2015 instead of 20th April, 2015 and, therefore, the Petitioners were constrained to approach this Court.

2. We have heard the learned counsel appearing on behalf of the Petitioners on merits at length. We do not find any reason to interfere with the order passed by the DRT-III. The notice under

section 13(2) was issued by the Bank on 24.7.2012 for an amount of Rs.39,07,52,886/-. The Petitioners have not deposited any amount during this period. The DRT after taking into consideration this fact, had refused to grant ad-interim relief. The learned counsel for the Petitioners submits that though a reply was given by the Petitioners to the notice under section 13(2), the said reply / representation was not considered, merely on the ground that the said reply, was running into 100 pages.

4. In our view, that cannot be a ground for grant of ad-interim relief since the proviso to section 13(3-A) of the SARFAESI Act clearly mentions that non-consideration of the representation, cannot be a ground of filing an appeal.

5. In any event, even after the possession of the premises is taken, the Petitioners satisfy the DRAT that the measures required under section 13(2), have not been taken, the DRAT has ample powers to restore the possession. Moreover, the Bank's application for the recovery of dues has been allowed and a decree for an amount of Rs.44,46,29,073/- has already been passed. Hence, there is no substance in the submissions made by the learned counsel for the Petitioners. Writ petition is dismissed in limine.

[A.R. JOSHI, J.]

[V. M. KANADE, J.]