

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5012 OF 2015

M/s Viraj Inks and Chemicals Pvt.Ltd.
and others

... Petitioners

v/s

Abhyudaya Co-op. Bank Ltd.

... Respondent

Mr Cyrus Ardeshir with Ms Sonali Jain i/b Mr Manish Gitay for
Petitioners.

Mr Vishal Ghosalkar for Respondent No.1.

CORAM: V.M. KANADE &
B.P. COLABAWALLA JJ.

DATE : 09TH JUNE 2015

P.C. :-

1. By this petition filed under Article 226 of the Constitution of India, the Petitioners are challenging the order passed by the Debt Recovery Tribunal-III, Mumbai dated 15th April 2015. By the said order, the Petitioners had agreed to deposit Rs.40,00,000/- within 45 days. In view of the consent given by the Petitioners, time was given to the Petitioners to deposit Rs.50,00,000/- on or before 15th May 2015. It is an admitted position that the Petitioners did not deposit a single farthing. After 15th April 2015 and even today also, the possession is not taken by the Bank and after service of notice,

the Petitioners have now approached this Court. It is submitted that instead of approaching DRT, the Petitioners have approached this Court directly. It is submitted that the Petitioners have paid an amount of Rs.1.5 crores after an Application under the Secularization Act was filed. It is submitted that the order was passed by the DRT on 15th April 2015.

2. The Petitioners submit that there is a possibility of the mortgage property being sold to the buyer and if the said property is not sold within two months, he undertakes to handover peaceful possession of the property to the Bank.

3. The learned counsel appearing on behalf of the Respondent – Bank does not accept this offer given by the Petitioners. It is submitted that since last two and half years, several offers were given and there was no settlement between the parties.

4. In our view, the Petitioners have given consent to deposit Rs.40,00,000/- within 45 days and having not deposited a farthing till date, it is not open now to challenge that order. Writ Petition, therefore, is dismissed.

(B.P. COLABAWALLA, J.)

(V.M. KANADE, J.)