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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION No. 1623 OF 2015
IN
WRIT PETITION No. 1085 OF 2014

Kapil Devprakash Rajput ….Applicant
Vs.
Bank of Baroda and Ors. ….Respondents

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Mr.Sachin R. Pawar for Applicant/Petitioner
Ms.Purnima Pandit for Respondent No.1
Ms. Gauri Rao -AGO for Respondent Nos. 2 & 4

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CORAM : V. M. KANADE &
B.P COLABAWALLA, J.J.

DATE : JUNE 17, 2015

P.C. :

1. We have heard the learned counsel appearing on behalf of the Applicant/Petitioner.

2. The Applicant has filed this civil application for recalling/ reviewing the order passed by us on 9.6.2015. It is submitted that the said order may be recalled and the petition may be restored to the file. It is submitted that by order dated 16th December, 2014, this Court had directed the DRT to determine the exact amount which is payable by the Petitioner to the bank. The Petitioner/Applicant had expressed his willingness to pay the said amount which may be determined by the DRT. In view of the statement made, we had directed the bank not to take possession of the property which was secured in favour of the bank.

3. It is an admitted position that the Petitioner/Applicant has not paid any amount as offered by him, as mentioned in paragraph 1 of our order dated 16th December, 2014. After the interim order was passed, the DRT has also not determined the actual amount which was payable by the petitioner. The direction in paragraph 4 was given since there was a dispute about the actual amount which was payable. According to the petitioner the amount, which was payable to the bank, was Rs.93,69,362/- . According to the bank, the outstanding amount with interest was calculated as Rs.1,19,65,195/- excluding penal interest plus recovery charges. The Petitioner has not deposited any amount after the order was passed by this court on 16.12.2014.

4. We are, therefore, not inclined to recall/ review our order dated 16th December, 2014. Apart from that, the Petitioner is a principal borrower and he has no locus to appear in an application filed under section 14 of the SARFAESI Act. This Court, inter alia, in its judgment dated 23rd February, 2015 in Writ Petition No.11459 of 2014 in the case of **Hari Trading v/s.Bank of Baroda**, has already taken the said view that the borrower has no locus to appear in an application filed under section14 of the SARFAESI Act. Hence, writ petition is dismissed and in view of dismissal of the writ petition, the civil application does not survive and it is, accordingly, disposed of.

[B.P COLABAWALLA, J.] [V. M. KANADE, J.]

Vaishali Tikam