

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11178 OF 2014**

Sri Sai Buildmart Pvt. Ltd. Petitioner.

V/s

Sai Phalguna Resorts and Hotels
Pvt. Ltd & Anr. Respondents.

**ALONGWITH
WRIT PETITION NO.11197 OF 2014**

Central Bank of IndiaPetitioner.

V/s

M/s. Sai Phalguna Resorts &
Hotels Pvt. Ltd. & Anr. Respondents.

Mr. V.R. Dhond, Senior Counsel alongwith Mr. Mayur
Khandeparkar, Mr. Jose George for the Petitioner In Writ
Petition No.11178 of 2014.

Mr. V.K. Nair for the Petitioner in Writ Petition No.11197 of
2014.

Mr. Paritosh Jaiswal alongwith Mr. Kishor Vussanji alongwith
Mr. Rubin Vakil i/b M/s Kanga & Co. for Respondent No.1 in
Writ Petition No.11178 of 2014 and in Writ Petition No.11197
of 2014

**CORAM: V. M. KANADE &
REVATI MOHITE DERE, JJ.**

**Reserved on 15/4/2015
Pronounced on 30/4/2015**

P.C.:- (Per V.M. Kanade, J.)

1. We have heard both the parties at length.
2. One Writ Petition is filed by Central Bank of India and the other by Sri Sai Buildmart Pvt. Ltd. Both the Petitioners have challenged the impugned order passed by the DRAT, Mumbai.
3. Since the order under challenge is a common order, both these Petitions can be disposed of by a common order.
4. Respondent No.1 filed SA before the DRT. There was a gross delay in filing the said SA and, therefore, he filed an application for condonation of delay. The said application was dismissed. In the said SA, judgment-debtor, Respondents herein did not add auction purchaser as party respondents. Thereafter, appeal was filed by the judgment-debtor, challenging the said order passed by the DRT. DRAT condoned the delay which was caused which, according to the Petitioners herein, was more than 365 days whereas according to the judgment-debtor, it was 268 days.
5. DRAT, however, came to the conclusion that sufficient cause was shown by the judgment-debtor and, therefore,

condoned the delay and remitted the matter back to DRT.

6. Several submissions have been made by the learned Counsel appearing on behalf of the secured creditor as well as the auction purchaser. In our view, it is not necessary to deal with the said submissions since the principal question is: whether discretion vested in DRAT for condoning the delay can be interfered with.

7. It is well settled that whenever discretion is vested in any particular authority and the said discretion is exercised by the said authority in accordance with law, appeal court or writ court is not expected to interfere with the said order. We are therefore not inclined to interfere with the said impugned order condoning the delay passed by the DRAT.

8. Both these Writ petitions are therefore dismissed. However, all the contentions which are raised by the auction purchaser and the Central Bank are kept open. DRT may consider all these questions on merits, including the question of maintainability of SA after the auction purchase has become final.

9. At this stage, the learned Counsel appearing on behalf of the auction purchaser seeks stay of the DRT proceedings for a period of eight weeks. On this request being made, we

are of the view that since the auction purchaser wishes to challenge this order in Apex Court, DRT may not proceed with the hearing of the SA for a period of eight weeks.

10. With the above observations, both these Petitions are disposed of.

(REVATI MOHITE DERE, J.)

(V.M. KANADE, J.)