

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11643 OF 2014

Mannalal Khandel Wal	...Petitioner
<i>Versus</i>	
Cosmos Cooperative Bank Ltd.	...Respondent

Ms. Shreya Deshpande i/b Kaikini Phadke & Associates for the
Petitioner.
Mr. Abbas Mandviwala i/b Raval Shah & Co. for the Respondent.

CORAM: A.S. OKA & G.S. PATEL, JJ.
DATED: 26th November 2015

PC:-

1. The learned counsel appearing for the Petitioner seeks time on the ground that on 3rd August 2015 the Petitioner has made an application to the Respondent-Bank for grant of benefit of One Time Settlement (for short "OTS"). She says that a sum of Rs. 30 lakhs has been deposited along with the said proposal. The learned counsel appearing for the Respondent states that even assuming that the Petitioner is entitled to the benefit of OTS, the total amount payable by the Petitioner after taking into consideration the sum of Rs. 30 lakhs paid by the Petitioner, will be Rs. 2.70 crores. When we made a query to the learned counsel appearing for the Petitioner whether the Petitioner is willing to immediately deposit a reasonable amount, on instructions, she states that the Petitioner is not in a position to immediately deposit any amount.

2. By this Petition under Article 226 of the Constitution of India, the challenge is to the order passed by the Chairperson of the Debt Recovery Appellate Tribunal (for short “DRAT”). The Petitioner was directed to deposit a sum of Rs. 70 lakhs with the DRAT within a period of eight weeks. As the Petitioner did not deposit the amount as per the impugned order dated 12th September 2014, the Appeal preferred by the Petitioner stands dismissed.

3. The proposal for OTS was submitted by the Petitioner as late as on 3rd August 2015. Considering the fact that as on the date of the impugned order dated 12th September 2014, the amount payable by the Petitioner was approximately Rs. 6 crores, we cannot find any fault in the direction issued by the DRAT to deposit a sum of Rs. 70 lacs. Even as per the OTS proposal, the Petitioner will have to pay a sum of Rs. 3 crores provided the proposal is entertained.

4. Accordingly, the Writ Petition is dismissed.

5. We make it clear that this order will not affect the pending proposal for grant of OTS.

(G. S. PATEL, J.)

(A.S. OKA, J.)