

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.523 OF 2013**

S.D. Bhoskar and Co. and others	... Petitioners
v/s	
Bank of Baroda and another	... Respondents

Mr Satish Shetye i/b Ms Hemakshi B. Gandhi for Petitioners.
Mr Anant B. Shinde i/b M/s Anant B. Shinde and Co. for Respondent No.1.
Mr Nikhil Rajani i/b M/s V. Deshpande and Co. for Respondent No.2.

**CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA JJ.**

DATE : 14TH OCTOBER 2015

P.C. :-

1. Having heard both sides from the point of interim relief, we find that since the impugned order is passed on an application seeking dispensation and waiver of the condition of pre-deposit under section 18 of the SARFAESI Act 2002, the Petition itself can be disposed off. What we find is that the petitioners have been proceeded against by the lender Bank for recovery of sum of

Rs.1,00,98,640/- and interest thereon at the rate of 15 % p.a. Since the claim amount is determined and as principally in the above sum, interest of justice would be served and all rights and equities would be balanced if we direct that the Petitioner shall deposit a sum of Rs.25,00,000/- with the DRAT within eight weeks from the date of receipt of this order. That shall take care of the compliance of the order passed on 19th December 2011, which is impugned in this Writ Petition. The DRAT then decide the Petitioners' Appeal No.139 of 2011 on its own merits and in accordance with law, uninfluenced by any tentative and prima facie finding in the order seeking dispensation and waiver of pre-deposit. This order is passed bearing in mind the facts peculiar in this case.

2. We are of the view that the writ petition would not survive even if the legal question formulated by this Court is of some substance. We have taken care of the Petitioners' apprehension. Once they comply with the reasonable condition imposed by this Court, then the DRAT is free to decide the Appeal as above. If the Petitioners succeed therein, then nothing would survive in this

Petition. In the event, the Petitioners do not succeed and have an adverse order, then the Petitioners can raise the legal question with all contentions being open to them. With all this, Writ Petition need not kept pending, it is accordingly disposed off.

3. To enable the Petitioners to comply with the order passed today, the ad-interim relief granted by this Court will continue for a period of twelve weeks from today.

4. By consent, Writ Petition is disposed off.

(B.P. COLABAWALLA, J.)

(S.C.DHARMADHIKARI J.)