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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) No. 111 OF 2015

M/s. Aditya Logistics (I) Pvt. Ltd.

And Ors.

...Petitioners

Vs.

IDBI Bank Limited

...Respondent

Mr. VRB Krishnamurthy – Petitioner No.2 present in person

Mr.E.P. Bharucha, Senior Counsel a/w. Maneesha Patel for
Respondent .

CORAM : V. M. KANADE &
A.R. JOSHI, JJ

DATE : MARCH 18, 2015

P.C. :

1. The Petitioners are aggrieved by an order passed by the DRAT, Mumbai directing the Petitioners to deposit Rs.4 crores in two installments.

2. Brief facts are that the Petitioners had filed an appeal under section 17 of the SARFAESI Act, 2002 before the DRT-III challenging the action of the Bank in taking possession of their property. The contention of the Petitioners is that the measures, which ought to have been taken by the Bank before taking possession, have not been taken by the Bank. Several allegations were made by the Petitioners in the said application which was filed before the DRT. An application for interim relief for stay has also been made before the DRT and a prayer was made for returning the property. The DRT,

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however, came to the conclusion that at this stage such an interim relief cannot be granted. It is, however, observed that the possession of the property can be given back to the Petitioners in the event they succeed in the appeal/application filed before the DRT.

3. In our view, since the main application under section 17 is pending before the DRAT, the ideal thing to do is to direct the DRAT to decide the said application expeditiously on merits and in accordance with law. The Bank is permitted to file their affidavit within four weeks and also furnish the necessary information to the Petitioners. The DRAT shall expeditiously dispose of the Petitioners' application, as far as possible, preferably, within 12 weeks from today. All contentions raised by the Petitioners and the Respondent are kept open. The Petitioner No.2, who is present in person submits that forcible possession was taken by the Bank, which allegation is denied by the learned counsel appearing on behalf of the Respondent. It is submitted that some of their valuable documents could not be taken by them. The Bank may consider the request for returning the said documents to the Petitioners. If any grievance remains, the Petitioners may file an application before the DRAT for returning of documents or such other articles which are required for their need. If such an application is made, the same may be considered on merits and in accordance with law, expeditiously, in any case, within a period of two weeks. Another grievance of the Petitioners is that certain vehicles which they have not been hypothecated with the Bank, are also seized. However, the learned counsel for the Bank submits that these vehicles are released. This fact is disputed by Petitioner No.2. The Petitioners may also file an application before the DRAT for

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releasing the vehicles which are not hypothecated with the Bank. If such an application is filed, the same also be considered by the DRAT within two weeks. The appeal which was filed by the Petitioners, has already been dismissed. With these directions, the writ petition is disposed of.

4. The auction proceeding may take place, however, the sale may not be confirmed in order to enable the Petitioners to approach before the DRAT.

Parties to act on an authenticated copy of this order.

[A.R.JOSHI, J.]

[V. M. KANADE, J.]