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

WRIT PETITION No. 469 OF 2015

M/s. Jaycee Exports & Ors. ... Petitioners
Vs.
State Bank of India ... Respondent

Mr. Puneet K. Gogad, for the Petitioners.

Mr. Lalitkumar Jain i/b Lalitkumar Jain & Co., for Respondent.

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

DATE : APRIL 8, 2015

PC.

1. Heard the learned counsel appearing on behalf of the Petitioners and the learned counsel appearing on behalf of the Respondent-Bank. Petitioners are aggrieved by an order dated 18th June, 2014 passed by the DRAT. By the said order, the DRAT has directed the Petitioners to deposit an amount of Rs. 1.5 Crores with Registrar of the Appellate Tribunal in two equal instalments within eight weeks. It is submitted by the learned counsel appearing on behalf of the Petitioners that the Petitioners have paid Rs. 60 lakhs and this fact has not been taken into consideration by the DRAT; secondly,

it is submitted that about 10 properties, belonging to the Petitioners, are mortgaged with the Respondent-Bank. It is further submitted that while considering the question of waiver, the Court has to consider whether *prima facie* case is made out by the Bank, and only then direct the payment of amount towards deposit, as contemplated under the Act.

2. It is not possible to accept this submission since the Respondent-Bank has issued notice under Section 13(2) and claimed amount of Rs. 4.83 Crores. As per the direction of the DRT-III, Mumbai, Petitioners have already deposited Rs. 60 lakhs. The total amount due by the time when the matter went to the DRAT was Rs.6.60 Crores. Out of that, DRAT has directed the Petitioners to deposit Rs. 1.50 Crores. We do not find any infirmity in the said order. It is well settled that as per Section 18 of the SARFAESI Act, no appeal shall be entertained unless the borrower has deposited with DRAT fifty per cent of the amount of due from him, as claimed by the secured creditors or determined by the Debt Recovery Tribunal, whichever is less, provided also that the DRAT may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five

per cent of the debt. If the debt due is Rs. 6.60 Crores, then amount of Rs. 1.50 Crores is reasonable amount, which has been directed to be paid by the Petitioners.

3. Learned counsel appearing on behalf of the Petitioners submitted that Petitioners are willing to give proposal for settlement of the entire dues. On the other hand, learned counsel appearing on behalf of the Respondent-Bank submitted that Petitioners had promised to clear entire dues by 2013 and no payment was made during this time. It is always open for the Petitioners to give a suitable proposal to the Bank before the DRAT or DRT.

4. There is no merit in the submissions made by the learned counsel appearing on behalf of the Petitioners. Writ petition is dismissed. Interim order is vacated. At this stage learned counsel appearing on behalf of the Petitioners seeks extension of time for depositing Rs. 1.5 Crores. This request for extension of time is declined.

Sd/-
[A. R. JOSHI, J.]

Sd/-
[V. M. KANADE, J.]