

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.1852 OF 2015

Shah Mahendrakumar and Co. (Exports)
Pvt.Ltd. and others ... Petitioners
v/s
Punjab National Bank and another ... Respondents

Mr Mayur Khandeparkar with Ms Sapna Rachure i/b M/s T.N.
Tripathi and Co. for Petitioners.
Mr Pranil Sonawane for Respondent No.1.

CORAM: V.M. KANADE &
B.P. COLABAWALLA JJ.

DATE : 05TH AUGUST 2015

P.C.:-

1. By this Writ Petition, the Petitioners have challenged the interim order dated 19th May 2015 passed by the Debts Recovery Tribunal II, Mumbai under which the Petitioners were directed to deposit a sum of Rs.4/- crores by 22nd June 2015 failing which the defence of the Petitioners against their dispossession from the suit property was to be struck off and the present Securitization

Application was to stand dismissed.

2. Mr Khandeparkar, learned counsel appearing on behalf of the Petitioners submitted that the Petitioners shall deposit Rs.3,08,81,295/- which according to him is 25 % of the amount claimed in the demand notice dated 27th September 2014, within four weeks from today with the Respondent No.1 – Bank i.e. on or before 1st September 2015. The learned counsel appearing on behalf of the Bank submits that 25 % of the Amount claimed comes to about Rs.4/- crores and not Rs.3,08,81,295/-.

3. Mr Khandeparkar further submitted that if the Petitioners fail to deposit the said amount, he undertakes to handover physical possession of Flat Nos.401, 402 and 403, situated at 4th Floor, Vora House, Pranav Residency, Dadar Matunga, Mumbai 400 019 to the Authorised Officer of the Respondent No.1 on expiry of four weeks from today and the Securitization Application No.53 of 2015 filed by them would stand dismissed. The learned counsel appearing on behalf of the Bank submits that they are not agreeable to the said

proposal.

4. Pursuant to the submissions made, we had directed the Petitioners to file an undertaking to that effect. Accordingly, today the Petitioner Nos.1 and 2 have given their undertaking mentioning the aforesaid facts. The undertaking given by the Petitioners is accepted. The offer and undertaking given by the Petitioners are fair and reasonable. The impugned order passed by the DRT therefore is set aside and the Petition is disposed of in terms of the undertaking given by the Petitioners. Needless to state that if this amount of Rs.3,08,81,295/- is not deposited on or before 1st September 2015, the Petitioners shall deliver vacant physical possession of Flat Nos.401, 402 and 403, situated at 4th Floor, Vora House, Pranav Residency, Dadar Matunga, Mumbai 400 019 to the Authorised Officer of the Respondent No.1 and the Securitization Application No.53 of 2015 shall stand dismissed without any further orders. In that event, the Bank shall be at liberty to dispose of the suit property after following the procedure as laid down under the provisions of the SARFAESI Act, 2002.

5. If the amount is however deposited, the said Securitization Application shall proceed in accordance with law. The Respondent – Bank is restrained from taking possession of the suit property till 1st September 2015 subject to any further orders that may be passed by the DRT in that regard. The Writ Petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)

(V.M. KANADE J.)