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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION No. 3165 OF 2015

Smt. Radha A. and Anr.

....Petitioners

Vs.

State Bank of India

....Respondents

Mr. Yeshwant Shenoy i/b. Nahar S. Mahala for the Petitioners
None for the Respondents

***CORAM : V. M. KANADE &
M.S. SONAK, JJ.***

DATE : AUGUST 3, 2016

P.C. :

1. Heard Shri Shenoy, learned counsel appearing on behalf of the Petitioners.
2. The Petitioners are challenging the impugned order passed by the Debt Recovery Appellate Tribunal asking the Petitioners to deposit an amount of Rs.20,00,000/-. It is submitted that the said order was passed by the DRAT since the fraud was played by the Respondent Bank. Our attention is invited to paragraphs 6 and 7 of the impugned order passed by the DRAT. Further attention is invited to the judgment of the Apex Court in the case of **Rajendra Singh and Ors. Passed in SLP (Civil) No. 8479 of 1999.** It is

submitted that the Respondent Bank has committed fraud. Our attention is invited to paragraph 5 (xii) of the petition which is a table regarding the Bank Certificates of Export Realization issued by the Respondent Bank and the sum which was not even credited or partially credited into the Petitioners' account. It is submitted that the order passed by the DRT III, Mumbai is incorrect and the DRAT ought to have granted full waiver of deposit.

3. It is not possible to accept the submissions made by the learned counsel appearing on behalf of the Petitioners. The DRAT has observed that the amount which is due and payable by the Petitioners is Rs. 74,85,982.88 and after considering the rival submissions, has directed the Petitioners to deposit a sum of Rs.20 lacs within four weeks from the receipt of the copy of the order. It is an admitted position that though the order was passed on 22.9.2014, the said amount has not been deposited and, therefore, the appeal has been dismissed. We are unable to accept the submissions made by the learned counsel for the Petitioners that the order has been passed upon a fraud being committed by the Respondent Bank. It is further submitted that under section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Court has a power to pass a reasoned order. The DRAT has given its observations in paragraph Nos. 6 and 7 that on two occasions the statement of accounts have been filed, which are not

corresponding with each other and hence the bank was directed to file a fresh affidavit within a period of three weeks along with fresh and correct statement of account. Taking into consideration the aforesaid facts, the DRAT came to the conclusion that the Petitioners should deposit a sum of Rs.20,00,000/-. Hence, we do not see any infirmity or illegality in the order passed by the DRAT. Writ petition is dismissed. However, liberty is granted to the Petitioners to apply for restoration of the appeal after the payment of Rs.20 lacs within six weeks.

M.S. SONAK, J.

V.M. KANADE, J.