

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2672 OF 2016

A.J.Mehta and others

Petitioners

versus

The Debts Recovery Appellate Tribunal,
Mumbai and another

Respondents

Mr.VR.Dhond, Senior Advocate, with Mr.S.A.Kapadia and D.R.Mehta
i/by Dhruve Liladhar & Co. for Petitioners.

None present for Respondents.

CORAM : D.H.WAGHELA, C.J. AND
SMT.V.K.TAHILRAMANI, J.

DATE : 2nd March 2016

PC :

1. The petition seeks to call into question order dated 22nd September 2015 of the Debts Recovery Appellate Tribunal (`DRAT') in Appeal No.289 of 2009 whereby the appeal of the Petitioner has been dismissed for non prosecution.

2. Learned counsel for the Petitioners submitted that even as the Petitioners were pursuing the appeal on the particular date i.e. 22nd September 2015, learned counsel for the Petitioners could not remain present in person and hence he had made an arrangement for requesting the DRAT through a junior advocate, who could not have otherwise assisted the Court. He further submitted that in fact by now, the debt of the Respondent bank is already paid and the appeal

was surviving only for recording the fact of satisfaction of the debt of the Respondent bank.

3. Be that as it may, the short issue before this Court would be whether the Petitioners should be granted an opportunity of being heard before DRAT in Appeal No.289 of 2009. Having referred to the provisions of Section 22(2)(a) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, learned counsel for the Petitioners sought permission to withdraw the petition, without prejudice to the rights and contentions of the Petitioners, with a view to approaching the DRAT with a request to review the impugned order, so as to afford an opportunity of being heard to the Petitioners on such conditions as may be deemed proper.

4. Accordingly, the petition stands summarily disposed of as not pressed at this stage with a view to filing appropriate application before DRAT for reviewing the impugned order. Needless to clarify that if there is delay in filing the review application and if Petitioners propose to explain it by sufficient cause including filing and pendency of present petition, they can do so.

(CHIEF JUSTICE)

(SMT.VK.TAHILRAMANI, J.)