

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

WRIT PETITION NO.6972 OF 2016

Laxmi Cars Pvt.Ltd. and others	... Petitioners
v/s	
ICICI Bank Ltd. and others	... Respondents

Mr Rushabh Shah i/b M/s Raval Shah and Associates for Petitioners.
Mr Bhalchandra Palav with Ms Bhagyashree Lambhe i/b M/s Cyril Amarchand Mangaldas for Respondent No.1.

**CORAM : DR MANJULA CHELLUR, C.J.
AND M.S. SONAK, J.**

DATE : 26TH SEPTEMBER, 2016.

P.C. :-

1. The Debts Recovery Tribunal, Mumbai disposed of the Application on 23rd March 2016 passing the following order :-

- “A) The Original Application is allowed against Defendant Nos.1 to 3 and is disallowed against Defendant No.4 but without costs.
- B) The Defendant Nos.1 to 3 shall pay to the Applicant Rs.12,98,87,040/- (Rupees Twelve Crores Ninety Eight Lacs Eighty Seven Thousand Forty only) with interest @ 19.5% p.a. from the date of filing of Original Application i.e. 08.04.2011 till full and final payment and/or realisation thereof.

- C) The Applicant Bank is entitled to enforce the security interest created in respect of the mortgaged property described at Exh.71 to 73 to the O.A. for the realisation of the outstanding dues.
- D) The charge of the outstanding amount is on the hypothecated property mentioned in the agreement of hypothecation (Exh.32, 39, 53, 54 & 55).
- E) Let the Recovery Certificate be issued in favour of the Applicant and against the Defendant Nos.1 to 3 accordingly.”

2. Aggrieved by the same, an Appeal came to be filed before the DRAT being Appeal No.103 of 2016 wherein the following order was passed on 17th May 2016 :-

“In the facts and circumstances of the case as enumerated above and in the interest of justice, the appellants are directed to deposit 50 % of the amount determined by the Tribunal below amounting to Rs.12,98,87,040/- within a period of 30 days from the date of this order in the form of demand draft in the name of the Registrar, DRAT, Mumbai.

The Registrar of DRAT, Mumbai shall keep this amount in the shape of FDR in the Nationalized Bank for a period of six months in auto renewal scheme so that the same can fetch the prevailing rate of interest of the Bank.

The application for waiver is accordingly decided.

Heard the learned counsels for the parties in the stay application no.327 of 2016 in the interim relief prayed by

the Appellants and perused the record of the case.

In the facts and circumstances of the case and in the interest of justice, I deem it just and proper to direct the Respondents – Banks not to take any coercive steps against the Appellants till the next date.

It is made clear that if the Appellants fail to deposit the amount as directed above under section 21 of the RDDBFI Act 1993 within a period of 30 days from today, the interim order shall stand automatically vacated.

List this case for further hearing on 21.06.2016 as jointly prayed.”

3. From 17th May 2016, there is no compliance or directions of the said order dated 17th May 2016. This Court declined to grant interim relief on 24th June 2016. The matter is kept pending till date.

4. The fact remains that none of the terms of the conditional order dated 17th May 2016 are complied with.

5. The learned counsel appearing for Petitioners raised objection with regard to the sale notice, valuation etc. We are of the opinion that all these questions or controversies could be looked into by the Appellate Tribunal and decide the same on merits.

6. We decline to entertain the Writ Petition since we do not find any good ground in the Writ Petition warranting interference with the order dated 17th May 2016. The DRAT has dismissed the Appeal for non-compliance of the order dated 17th May 2016. Petition stands disposed of.

(M.S. SONAK, J.)

CHIEF JUSTICE