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

**WRIT PETITION NO.9158 OF 2015
IN
APPEAL NO.79 OF 2008
IN
SECURITISATION APPLICATION NO.17 OF 2007**

Soma Papers & Industries Ltd.	]	
having their Administrative office at	]	
Indian Mercantile Chambers, 3 rd Floor, 14	]	
R. Kamani Marg, Ballard Estate Mumbai	]	
400 038 through their Executive Director	]	
Shri. Bapat Somani	]	...Petitioner

VS

- | | | |
|----|--|---|
| 1. | Bank of India |] |
| | Assets Recovery Management Service |] |
| | Branch, having their address at 1 st floor, |] |
| | Bank of India Building 70/80 M.G.Road, |] |
| | Fort, Mumbai 400 023 and having their |] |
| | Head Office at Star House, 05 G-Block, |] |
| | Bandra Kurla Complex Bandra (East) |] |
| | Mumbai 400 051 |] |
| 2 | Union Bank of India |] |
| | having their address at |] |
| | Mumbai Samachar Marg, Branch, 56/80 |] |
| | M.S.Marg Mumbai 400 023 |] |
| 3 | Corporation Bank |] |
| | having their address at |] |
| | Indian Finance Branch, Bharat House, |] |
| | Shahid Bhagat Singh Road, Fort, Mumbai |] |
| | 400 001 |] |
| 4 | Dena Bank |] |
| | having their address at |] |
| | Indian Main Branch, Horniman Circle |] |
| | Mumbai 400 023 |] |
| 5 | I.B.Enterprises |] |
| | represented by Shri Munnabhai having |] |

their address at Malhotra House, 2nd Floor]
Opp. General Post Office Mumbai 400 001]

6 **M/s Eskays Construction Pvt. Ltd.**]
a company incorporated under the]
the Companies Act, 1956, having their]
Registered Office at Mittal Tower,]
“B” Wing, 16th Floor, 210, Nariman]
Point Mumbai 400 021]

7 **The Debt Recovery Appellate**]
Tribunal, Scindia House, 5th Floor Mumbai]
400 038]

...Respondents.

.....

Ms Jyotsna Vyas i/b Mr O.P.Pandya for the Petitioner

Mr O.A.Das for Respondent No.1.

Ms Tejasvi Dalvi for Respondent No.2.

.....

**CORAM : S. C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

RESERVED ON : 21st SEPTEMBER, 2016

PRONOUNCED ON : 30th NOVEMBER, 2016.

JUDGMENT (Per B.P.Colabawalla J):

Rule. The Respondents waive service. By consent of parties, Rule is made returnable forthwith and heard finally.

2 This Writ Petition has been filed by M/s Soma Papers & Industries Ltd. who is the borrower of Respondent Nos.1 to 4 in this Petition. The challenge in this Petition is to that part of

the order dated 7 January, 2014, passed by the DRAT directing resale of the properties and assets belonging to the Petitioner and which were secured with Respondent Nos.1 to 4 herein. The main ground on which this challenge is made, is that the OTS sanctioned by Respondent Nos.1 to 4 is binding on them and ought to be complied with. The facts clearly reveal that even though this OTS was sanctioned, the same was not complied with by the Petitioner herein. This fact is not disputed. In these circumstances, the OTS sanctioned by Respondent Nos. 1 to 4 was revoked by them. On going through the Petition, we find absolutely no merit in the contentions raised therein. That apart, in the companion Writ Petition filed by M/s Eskays Constructions Pvt. Ltd. (Respondent No.6 herein), we have already set aside the entire order dated 7 January, 2014, for the reasons more particularly set out in our order and judgement dated 30th November, 2016. In this view of the matter, we find no merit in this Writ Petition and the same is dismissed. There shall be no order as to costs.

(B.P.COLABAWALLA J.)

(S.C.DHARMADHIKARI J)