

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8634 OF 2015

M/s Rakshit Steels & Ors.	.. Petitioners
V/s	
Cosmos Bank & Anr.	.. Respondents

Mr. T.N. Tripathi i/b T.N. Tripathi & Co. for the petitioners.
Mr. S.R. Nargolkar with Mr. Swapnil Mohite for respondent no.1.

CORAM: D.H. WAGHELA, CJ. & M.S. SONAK, J.

DATE : 2nd APRIL 2016

P.C.:

Learned counsel for the petitioners sought permission to withdraw the petition at the outset. Learned counsel appearing for respondent no.1 objected to the outright withdrawal of the petition on the ground that serious fraud was being played by the petitioners in the process of litigation before the Debt Recovery Tribunal, Debt Recovery Appellate Tribunal and before this Court.

2. In brief, it was pointed out that even when the order dated 18th February 2015 of the Hon'ble Supreme Court was operating in the petition of the petitioners themselves [Writ Petition (C) No. 265 of 2013], the petitioners herein, by suppression of material facts, obtained the order dated 10th August 2015 of the Debt Recovery Tribunal (DRT), which order is sought to be challenged in the present petition.

3. Learned counsel for respondent no.1 further submitted that another order was obtained by the petitioners from the Debt Recovery Appellate Tribunal (DRAT) in their appeal from the impugned order, with the same device of suppression of material facts; and now, in the third round of litigation, during the pendency of the proceedings before the DRT, the present petition is sought to be unconditionally withdrawn. He also submitted that the order of DRAT subsequent to the order dated 10th August 2015 impugned herein is operating to the detriment of the respondent and the respondent proposes to make an application before the DRT to make a suitable fresh order for modifying the grant of interim relief to the petitioners.

4. In the above peculiar facts and circumstances, learned counsel for the petitioners has been fair enough to concede that any fresh application for modification of interim relief granted to the petitioners must be entertained and decided expeditiously by the DRT and such application needs to be heard and decided without being influenced by the earlier order dated 18th August 2015 impugned herein and the subsequent order dated 31st August 2015 of the DRAT in M.A. No. 636 of 2015 in Appeal No. 228 of 2015. Learned counsel for the petitioners further conceded that the huge costs incurred by the respondent bank in the litigation must be, in all fairness, reimbursed by the petitioners herein. He, however,

requested not to record any reasons in detail for dismissing the present petition and for awarding appropriate amount of costs to the respondent.

5. In the above facts, the petition is disposed as withdrawn with the directions that the petitioners shall pay to respondent no.1, by way of costs, sum of Rs.1,25,000/- within a period of one month and respondent no.1 shall be at liberty to file an application in the proceeding pending before the DRT for modification of the impugned order dated 10th August 2015 with a prayer to vacate the interim relief or impose suitable conditions to be complied by the petitioners herein, in light of the interim order of the Hon'ble Supreme Court, subsequent developments and passage of time.

6. It is clarified with the consent of learned counsel for the petitioners that as and when an application as aforesaid is made before the DRT by the respondent bank, it shall be heard and disposed expeditiously without being influenced by its previous order dated 10th August 2015 or the aforesaid order dated 31st August 2015 of DRAT. It is needless to observe that the DRT will now proceed to hear the main application of the petitioners as expeditiously as practicable in view of the assurance extended by learned counsel for the petitioners that they will not seek any unnecessary adjournment and prolong the proceedings for any further abuse of process of the Court.

7. Learned counsel for the petitioners also submitted that the petition lodged against the aforesaid order dated 31st August 2015 of the DRAT, being Civil Writ Petition (Stamp) No. 26576 of 2015, which is not yet registered in the High Court, may be disposed as withdrawn. Accordingly that petition stands disposed as withdrawn.

(M.S. SONAK, J.)

(CHIEF JUSTICE)