

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

WRIT PETITION NO. 400 OF 2016

Bank of Maharashtra

.. Petitioner

V/s.

Debt Recovery Tribunal-III, Mumbai
and ors.

.. Respondents.

Mr. Karl Shroff a/w. Ms Hema Desai and Mr. Vijay Hinge i/b M/s.
Singhi & Co for the Petitioner.

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

DATE : 27 SEPTEMBER 2016.

P.C.

1] Heard learned counsel for the petitioner.

2] Learned counsel for the petitioner makes a statement that the respondents have been duly served in the matter. Looking to the controversy involved, we proceed to dispose of this petition finally.

3] The petitioner instituted eight original applications detailed in paragraph '5' of the petition before the Debts Recovery Tribunal (DRT)-III, Mumbai on 7 November 2014. Alongwith these eight original applications, the petitioner has paid prescribed court fees as well.

4] Unknown to the petitioner and perhaps even to the Registry of DRT, Mumbai, the Government of India vide Notification F.No. 9/9/12 DRT (Part) dated 17 September 2014 modified to the extent of territorial jurisdiction of various benches of the DRT. In terms of this Notification, the territorial jurisdiction of DRT – I, II & III at Mumbai and DRT Pune were also modified.

5] On the basis of Notification dated 17 September 2014, the Registry of DRT, Mumbai later on realised that the original applications ought to have been instituted at DRT Pune. The matter was therefore placed before the Presiding Officer of DRT-III, Mumbai, who, on 5 October 2015 made the following order in each of the original applications:

“The present M.A. is filed seeking the relief as the office of DRT Pune refused to accept the matter on the plea that the same has not been transferred as per procedure.

As per notification F.No.9/9/2012-DRT (Part) dated 17.09.14 jurisdiction of MDRT I,II, III and Pune were bifurcated.

The matter under dispute has been filed in the registry after the notification and as such cannot be transferred but has to be returned to the applicant for presenting before proper forum. The order was passed on 23.07.15 directing the Registrar to pass order for return of the O.A. for presentation of them before appropriate form. Hence the Registrar in compliance of the order of this tribunal had passed the order of returning original application.

However to avoid inconvenience to the applicant bank I pass following order:

The matter be returned to the applicant for filing before appropriate forum within 30 days from the date of return of

matter. Necessary entry regarding payment of fees be made on the plaint so that the applicant need not pay the fees again”

PRESIDING OFFICER

DATE:05.10.2015

MDRT III”

6] In pursuance of the aforesaid order dated 5 October 2015, (similar order made in each of the original applications) the petitioner presented THE original applications before the Registry at DRT Pune. However, the petitioner was informed that the original applications will not be accepted at DRT Pune, unless, the petitioner pays fresh set of court fees in each of the original applications, so presented. This was despite categorical direction in the order dated 5 October 2015, exempting the petitioner from payment of fresh court fees, since the petitioner had already paid court fees at the DRT-III, Mumbai Registry.

7] On 27 July 2016, we made the following order:

“1. Heard the learned counsel appearing on behalf of the Petitioner. None appears on behalf of the Respondents, though they were served. Affidavit of service is filed by the Petitioner.

2. The grievance of the Petitioner is that though initially he had filed an application before the Mumbai DRT-III, later on the jurisdiction was transferred to Pune Bench of DRT. He, therefore, filed the application before the Pune Bench of DRT. However, he was informed that he will have to pay a fresh court fees, though he has already deposited the court fees with the Mumbai DRT-III. Moreover, the Presiding Officer of Mumbai DRT-III has passed the judicial order dated 5.10.2015, directing to return the papers of the proceeding to the Applicant – Petitioner herein for the purpose of filing the same before the appropriate forum. He has further

made an observation that necessary entry regarding payment of fees be made on the plaint so that the Applicant need not to pay the fees again.

3. We are surprised that in spite of a clear direction given by the Mumbai DRT-III to the Pune, Bench of DRT, such direction is not yet complied with. We direct the Registrar, Pune, Bench of DRT to explain why despite an order being passed by the Mumbai DRT-III, that order is not yet complied with.

4. In the meantime, the Pune, Bench of DRT to process the application filed by the Petitioner, and pass an appropriate order within two weeks without waiting for the court fees to be transferred. Application for interim relief shall be processed by the Pune, Bench of DRT. Stand over to 10.8.2016.”

8] The endorsement in the farad-sheet indicates that the Registrar of DRT Pune has not submitted any explanation as required by him, in terms of paragraph '3' of our aforesaid order dated 27 July 2016.

9] Be that as it may, the DRT at Pune has already accepted the original applications instituted by the petitioner. There is no question of requiring the petitioner to pay fresh set of court fee in light of the order dated 5 October 2015 made by the DRT-III Mumbai. Such an order binds the Registry of DRT Pune in peculiar facts and circumstances of the present case. The Registry of DRT Pune, was not justified in refusing to accept the original applications or insist upon payment of fresh court fees.

10] We accordingly direct the DRT Pune to dispose of the original applications instituted by the petitioner (as referred to in paragraph '5' of the petition) as also the applications made

therein, in accordance with law and on their own merits without insisting upon the petitioners paying fresh set of court fees.

11] This petition is disposed of with the aforesaid directions.

12] All concerned to act on the basis of authenticated copy of this order.

(CHIEF JUSTICE)

(M.S.SONAK, J.)