IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.683 OF 2015

Yogesh Jayendra Mehta ... Petitioner
versus
Antwerp Diamond Bank N.V. And others ... Respondents

Mr.Rohan Cama with Prathamesh Kamat and Ms.Sapna Raichure i/by T.N.Tripathi & Co. for Petitioner.

Mr.R.L.Singh with Mr.Harsh Parte i/by M.V.Kini & Co. for Respondent no.1.

CORAM : D.H.WAGHELA, C.J. AND
M.S.SONAK, J.

DATE : 14th March 2016

PC :

1. The petitioner has approached this Court under Article 226 of the Constitution of India with the prayer mainly to set aside the order dated 28th October 2014 of Debts Recovery Appellate Tribunal (`DRAT') whereby the petitioner is directed to deposit a sum of Rs.15 lakhs within eight weeks so as to partly allow the Miscellaneous Application of the petitioner made under Section 21 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993, for waiver of the deposit. Learned counsel for the petitioner vehemently argued

that even as the petitioner's liability has been limited to making payment of Rs.1,87,22,352.06 Ps. with interest @ 12% p.a. by the order of Debts Recovery Tribunal (`DRT') which is sought to be challenged before DRAT, the respondent no.1 bank has already recovered much larger amount by virtue of execution of the order of DRT. That aspect of the matter has not been considered by DRAT in the impugned order only on the basis that respondent no.1 bank had not intimated to the Court the amounts recovered by respondent no.1 bank.

2. In view of the limited ground pressed by the petitioner, besides financial difficulty and prima facie case, learned counsel for respondent no.1 bank was repeatedly called upon to declare the amount which was admittedly received by respondent no.1 bank in respect of the claim partly upheld by DRT in its judgment dated 13th March 2012. Pursuant to the persistent query, learned counsel for respondent no.1 bank has come forward and placed on record "*Account Certification*" signed by the authorized signatory of respondent no.1 bank. On the basis of that statement it is submitted that the amount really due to the respondent no.1 bank was exceeding Rs.27 crores and the recoveries made by 10th March 2016 were only slightly exceeding Rs.11.18 crores. It was, however, conceded that in respect of larger claim of the respondent no.1 bank, which has been disallowed by DRT, the respondent no.1 bank has also filed its appeal being Appeal No.152 of 2012 and as such both the

appeals of both the parties are pending. It was submitted on behalf of respondent no.1 bank that in view of the calculation and claim of the respondent no.1 bank against the petitioner herein, the matter of deciding the amount of pre-deposit or its waiver may be remanded back to DRAT.

3. Having heard learned counsel in extenso only on the point of waiver of pre-deposit and relying only on the admitted facts, it appears that the decretal amount due to respondent no.1 bank under the order of DRT and after calculating the interest awarded to the respondent no.1 bank, the total amount due to respondent no.1 bank as of today, would be in the region of Rs.3.50 crores. Whereas, the remaining claim or the claims which have been disallowed by DRT are yet to be adjudicated by DRAT. As against that, substantial amount of Rs.11.18 crores has admittedly been recovered by respondent no.1 bank. Therefore, and in view of the fact that both the appeals are pending before DRAT since the year 2012, and further in view of the fact that both parties have agreed to have both the appeals heard and decided within a period of six months, the impugned order is set aside in the interest of expeditious final adjudication of the claims of parties. Accordingly, the petitioner and respondent no.1, as agreed before this Court, shall co-operate in the earliest practical hearing and disposal of the main appeals being Appeal Nos.179/2012 and 152/2012 pending before DRAT; and DRAT is requested to expeditiously hear both

the appeals and decide the same as far as practicable within a period of six months. Rule is made absolute to that extent, with no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)

MST