

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3158 OF 2014

Mohammed Afzal Mohammed Aslam and Another ..Petitioners

Vs.

Chief Manager, Indian Bank and Others ..Respondents

Ms. Sapna Rachure i/b M/s T. N. Tripathi and Co,for the Petitioners.

Ms. Devki P. Sahu i/b Mr. Ashok M. Saraogi,for Respondent No.3.

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

DATE :- **SEPTEMBER 22, 2016.**

P. C.:

Heard Ms. Rachure, learned counsel appearing for the
Petitioners. Perused the Writ Petition and the impugned order.

2 Further affidavit of the Petitioners is taken on record.

3 We do not think that the High Court should interfere
with an order passed by the learned Presiding Officer of the Debts
Recovery Appellate Tribunal imposing a very reasonable condition
of deposit of Rs. 40 lakhs so that an Appeal preferred by the

Petitioners can be entertained.

4 We do not think that the Petitioners can rely on any adjustment and from the amounts which are now stated to have been deposited by the auction purchaser over which the bank is claiming charge as hypothecated security. It is entirely for the bank to take a decision whether to mark the dues of the Petitioners as fully satisfied by relying upon such deposits or payments. The High Court cannot interfere once the condition imposed is just, fair and reasonable. It does not take away right of appeal or render it illusory. It is conceded that the Petitioners have no right to insist on unconditional waiver of condition of pre-deposit. The Writ Petition is devoid of merit and dismissed. Ad-interim order, if any, is vacated forthwith.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)