

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 3583 OF 2015**

Romen M. Patel	...Petitioner
<i>Versus</i>	
Bank of Maharashtra	...Respondent

Mr. Rohaan Cama a/w Mr. Mehul A. Shah, for the Petitioner.
Ms. Hema Desai, i/b M/s. Singhi & Co., for the Respondent.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 5th January 2016

PC:-

1. Having heard Mr. Cama appearing for the Petitioner (the Appellant before the Debt Recovery Appellate Tribunal, (“**DRAT**”) and the learned counsel appearing for the Respondent Bank, we are of the view that the learned Chairperson of the DRAT was in error in directing the Petitioner to deposit Rs. 40 lakhs as a pre-condition for entertaining the Petitioner’s Appeal. The learned Chairperson should have noted the nature of the proceedings. The Petitioner was not challenging any substantive decree or the determination by the Debt Recovery Tribunal (“**DRT**”) of any sum due and payable. There was an interlocutory application being Miscellaneous Application No. 857 of 2013 in which the Petitioner submitted before the DRT, viz., the Trial Court, that the

Respondent Bank ought not be permitted to rely upon certain documents alleged by the Petitioner to be fabricated. The learned Presiding Officer of the DRT directed that application to be heard along with the main proceeding.

2. It was in the context of this limited controversy, and aggrieved by this order of the Presiding Officer that the Petitioner approached the DRAT. On such an Appeal, the Registry of that Tribunal raised an objection that the Petitioner must comply with the requirement of deposit of money as a pre-condition for entertaining the Appeal, or else he should apply for a waiver of the pre-condition of deposit. The DRAT found that such an application for waiver was indeed made and proceeding on the basis that because such an application was made, it *ipso facto* empowered or enabled the DRAT to impose a condition of pre-deposit, that the instant order with a condition of pre-deposit was passed.

3. However, while not upholding that part of the order passed by the learned Chairperson of the DRAT and while interfering with it to that extent, we record the statements made by Mr. Cama, on instructions, that the Petitioner will not press his Appeal before the DRAT being Appeal No. 292 of 2015. The Petitioners have already filed a Written Statement in the Tribunal to oppose the Original Application. The Debt Recovery Tribunal to which the Original Application is assigned shall permit the Petitioner to raise all contentions, including those based on the contents of Miscellaneous Application No. 857 of 2013. The Tribunal shall make an endeavour to dispose the main proceeding expeditiously.

The Petitioner shall cooperate in an early disposal by not seeking unnecessary adjournments.

4. The present Writ Petition and the Appeal before DRAT are disposed of in these terms.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)