IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1138 OF 2016

M/s. Intellect Systems (I) Pvt. Ltd., Nagpur and others

-vs-

State Bank of India, Mumbai Branch Office, nagpur, thr.its Asstt. General Manager

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. P. R. Puri, counsel for the petitioners.
Mr. M. Anil Kumar, counsel for the respondent.

CORAM : SMT. VASANTI A. NAIK & MRS. SWAPNA JOSHI, JJ.

DATE : 08.06.2016.

By this writ petition, the petitioner challenges the order of the Debts Recovery Appellate Tribunal, Mumbai, dated 14/12/2015 partly allowing the application of the petitioners for waiver of the pre-deposit for filing an appeal, under Section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

According to the petitioners, the Debts Recovery Appellate Tribunal ought to have waived the condition of making the mandatory deposit of 75% of the amount due and payable as per the order of the Debts Recovery Tribunal in the circumstances of the case. It is stated that the properties belonging to the petitioners are already mortgaged with the Bank and, therefore, the Debts Recovery Appellate Tribunal ought to have granted a complete waiver of the condition of making the pre-deposit.

On the other hand, it is submitted on behalf of the respondent-Bank that the petitioners have not paid a single pai towards the dues since 2012 and an amount of more than Rs.9.00 Crore is due and payable by the petitioners. It is stated that the application filed by the respondent-Bank is allowed by the Debts Recovery Tribunal and the petitioners were directed to pay a sum of Rs.5,88,41,773/- with interest at the rate of 13% per annum from the date of filing of the application till the actual realization. It is stated that by the impugned order, the Appellate Tribunal has merely directed the petitioners to deposit a sum of Rs.3.00 Crore in two equal installments as per the time frame mentioned in the order.

In the circumstances of the case, the relief sought by the petitioners cannot be granted and the impugned order cannot be interfered with, specially, in exercise of the writ jurisdiction. It appears that the Debts Recovery Appellate Tribunal, on a consideration of the material on record, held that the petitioners should deposit an amount of Rs.3.00 Crore in two equal installments instead of depositing 75% of the mandatory deposits as required by the provisions of Section 21 of the Act of 1993. The total dues run into more than Rs.9.00 Crore. No case is made out by the petitioners for interfering with the discretion exercised by the Debts Recovery Appellate Tribunal. The submission made on behalf of the petitioners that the properties of the petitioners are already mortgaged with the respondent-Bank and hence, the order of complete waiver of making the pre-deposit should have been passed is liable to be rejected.

Since no case is made out for interference with the impugned order, the writ petition is dismissed with no order as to costs.

At this stage, Shri P. R. Puri, the learned counsel for the petitioners, states that since the petitioners had approached this Court, time to deposit the amount may be appropriately extended.

The request made on behalf of the petitioners is just and reasonable. The time to deposit the first installment of Rs.1.5 Crore is extended by one month from this date and time to deposit the second installment of Rs.1.5 Crore is extended by a period of two months from today.

Order accordingly.

JUDGE **JUDGE**

KHUNTE