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

WRIT PETITION NO.12433 OF 2017

The Saraswat Co-operative Bank Ltd.	..Petitioner
Versus	
M/s. Dharmendra Industries and others	..Respondents

Mr. B. V. Samant, AGP for the Petitioner.

Mr. M. K. Dubey a/w Mr. Anil Dubey for Respondent Nos.1 to 3.

**CORAM: B. R. GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE: 22nd November, 2017

P.C.:-

1] Perusal of the impugned order would reveal that while considering the application for waiver under the provisions of Section 18, the learned DRAT has considered the amount, which was received by the Bank upon sale of the mortgaged property after issuance of notice under section 13(2).

2] It is not, as if the learned Tribunal has not directed any pre-deposit, as contended by the learned Counsel for the Petitioner – Bank. The learned DRAT, after deducting the amount already realized by the Bank from the amount mentioned in the notice under section 13(2), has directed that an amount of Rs 1.27 crores be deposited. It cannot

be said that the discretion, as is exercised by the learned DRAT, suffered from perversity or impossibility, which warrants interference under extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

3] In that view of the matter, Petition stands rejected.

(SANDEEP K. SHINDE, J.)

(B. R. GAVAI, J.)