IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATEJURISDICTION
WRIT PETITION ST.NO.32671 OF 2017

Mohammed Hanif Syed & Anr. .. Petitioners
Versus
Kotak Mahindra Bank Ltd. .. Respondents

Ms. Anita Castelino i/b. Sayed Zia for petitioners
Mr. Vishal Kanade with Ms. Medha Rane i/b. M & M Legal Venture for respondents.

CORAM : B.R. GAVAI &
SANDEEP K. SHNDE, JJ

DATE : 24th November, 2017

P.C.:

1. The petitioner challenges the order dated 21st November 2015 by which the learned D.R.A.T. has rejected the application of the petitioner for extension of interim order dated 11th December 2015.

2] A perusal of the impugned order would reveal that vide the order dated 14th January 2016 Their Lordships of Apex Court had directed the petitioner to deposit an amount of Rs.10 lakhs with respondent bank. It was further directed that upon payment of the amount within the stipulated period, the said appeal shall be heard on merits. Perusal of the Apex Court order further shows that Their Lordships had also directed that the appeal shall be decided

preferably within a period of six months from the date of the order.

3] It is also seen that though the amount as directed has been deposited, on and from 26th February 2016 the appellants are only seeking adjournments and not willing to argue the matter.

4] A perusal of the impugned order would further show that even on the date on which the said order was passed, Advocate for the appellants was requested to proceed with the main appeal but the Advocate insisted on passing orders on interim reliefs and was not ready to proceed with the matter/ appeal.

5] Learned Counsel for the petitioner states that since the issue with regard to the applicability of provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) to the non banking institutions is pending with the Apex Court, it was found appropriate by the learned Counsel for petitioner not to argue the matter before D.R.A.T.

6] After the matter was argued at length and when we were inclined to dismiss the petition on the ground that the Counsel for the petitioner i.e. appellant before D.R.A.T. was not willng to argue the

matter, the learned Counsel for the petitioner stated that the petitioners would argue the matter on merits before D.R.A.T. if some time is granted.

7] However, Mr. Kanade, learned Counsel appearing for respondent Bank opposes the request on the ground that it is only when the steps are taken by the respondent Bank to secure possession of the secured assets, that the petitioners have filed this petition.

8] Without going into the controversy, interest of justice would be sub-served if an additional amount is directed to be deposited by the petitioners in addition to the one which is already deposited as per the orders of Hon'ble Apex Court dated 14th January 2016 and the appeal is directed to be heard on merits.

9] In this view of the matter, the appellants/ petitioners to additionally deposit an amount of Rs.10 lakhs with the respondent Bank within a period of two weeks from today. If such an amount is deposited within two weeks, learned D.R.A.T. shall hear the matter on merits in the week commencing from 11th December 2017. Parties shall appear before the Tribunal on 11th December 2017 so

that learned D.R.A.T. can fix a date for hearing as per its convenience. However, the appeal shall be decided by the end of December 2017.

10] Needless to state that in the event the amount as directed hereinabove is not deposited within the prescribed period, the order passed by the Tribunal dated 21st November 2017 shall hold the field and the petition shall be treated as dismissed.

11] Needless to state that until further orders to be passed by the learned D.R.A.T. the parties shall maintain status quo as of today.

(SANDEEP SHINDE, J) (B.R.GAVAI, J.)