

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.854 OF 2017

Fine Platinum (India) Limited and another	Petitioners
versus	
Indusind Bank Limited and others	Respondents

AND

WRIT PETITION (L) NO.873 OF 2017

Fine Jewellery (India) Limited and others	Petitioners
versus	
Indusind Bank Limited and others	Respondents

Mr.Rohan Cama with Ms.Sapna Rachure i/by M/s.T.N.Tripathi & Co.
for Petitioners in WP (L) No.854/2017.

Mr.Prathamesh Kamat i/by Mr.Govind B. Solanke for Petitioners in
WP (L) No.873/2017.

None present for Respondents.

CORAM : S.C.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 20th April 2017

PC :

1. We have heard Mr.Cama and Mr.Kamat for Petitioners-original appellants. Both the Petitioners are parties to Appeal No.82 of 2015 which was on the file of Debts Recovery Appellate Tribunal (‘DRAT’) at Mumbai. It is common ground that this appeal before DRAT was placed before the Chairperson. The Chairperson was of the opinion that the appeal has been filed against the order of Debts Recovery Tribunal below Exhibit-17, dated 14th August 2014 in Original

Application No.88 of 2012. The Tribunal after hearing both sides on the point of stay, directed the Appellants-Petitioners before us, to deposit a sum of Rs.2 crores within eight weeks in two equal installments. That is how an application styled as Miscellaneous Application No.147 of 2015 in Appeal No.82 of 2015 was disposed of.

2. Aggrieved and dis-satisfied with this order, the Petitioners brought two writ petitions in this Court being Writ Petition No.3071 of 2015 and Writ Petition (L) No.3096 of 2015. They were decided together by a detailed judgment and order of 5th July 2016. Aggrieved and dis-satisfied by the judgment and order of the Division Bench of this Court, a Special Leave Petition has been preferred being SLP No.21431 of 2016. That was moved on 18th November 2016 and a copy of the order passed by Supreme Court indicates that delay in filing the same was condoned and notice was issued to the first Respondent bank. However, the Supreme Court order indicates that there has been no interim stay of recovery. The matter may have been placed on a later stage and is pending, but the self operative order of DRAT dated 11th September 2015, as confirmed by this Court, became enforceable and is holding the field. The consequence flowing therefrom is automatic dismissal of Appeal No.82 of 2015 on the file of DRAT. Precisely that has taken place on 23rd March 2017. Aggrieved thereby, these further petitions.

3. We are of the opinion that once the substantive challenge has failed in this Court, then this second round of litigation to impugn a consequential order and direction, cannot be encouraged. That

would mean we revisit the whole controversy and which is concluded by judgment and order passed on 5th July 2016. Merely because a special leave petition is pending in the Supreme Court of India, does not mean that we can allow the Petitioners to avail of this legal remedy, which is these writ petitions. That would mean that these Petitioners do not comply with the condition expressly found to be reasonable, fair, just and proper by this Court. That condition imposed by DRAT having not been complied with, the substantive appeal itself has come to an end. Such litigants who do not wish to even comply with fair and reasonable conditions and keep on postponing and delaying the recovery of public dues, do not deserve any sympathy either. Our jurisdiction under Article 226 of the Constitution of India is extraordinary, discretionary and equitable. Even today, when we asked both the learned advocates as to why the Petitioners are not willing to bring in any monies, they have stated that it is difficult for them to make any commitment or deposit any money.

4. In the circumstances, we do not entertain these writ petitions. They are dismissed accordingly.

(PRAKASH D. NAIK, J.)

(S.C.DHARMADHIKARI, J.)