

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

WRIT PETITION (L) NO. 1092 OF 2017

Splendour Gems Limited & Ors.

...Petitioners

Versus

Phoenix ARC Private Limited

...Respondent

Mr. Rahul Narichania, Senior Counsel, a/w Mr. T.N. Tripathi,
i/by M/s. T.N. Tripathi & Co., for the Petitioners.

Dr. Birendra Saraf, a/w Mr. Nikhil Rajani, i/by M/s. V.
Deshpande & Co., for the Respondent.

CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.

DATE : 14 June 2017

ORDER :

1. The Writ Petition is filed challenging the order passed by the Recovery Officer, Debts Recovery Tribunal-II. The learned Senior Counsel appearing on behalf of the Petitioners

submits that though the Petitioners have filed statutory Appeal, the Petitioners cannot pursue the said Appeal, since the Petitioners are not even in position to deposit the mandatory amount which is required to be deposited for such an Appeal.

2. The legislature itself has made certain conditions mandatory for entertaining Appeal. Merely because the Petitioners cannot fulfill the said conditions, cannot be a ground to permit the Petitioners bypassing an alternate remedy under Article 226 of the Constitution of India.

3. The Writ Petition is rejected accordingly.

[RIYAZ I. CHAGLA, J.]

[B.R. GAVAI, J.]