

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

WRIT PETITION (L) NO.2727 OF 2017

Ram V. Tyagarajan

..Petitioner

Versus

Union Bank of India

..Respondent

Mr. R. M. Tiwari for the Petitioner.

Mr. M. P. Rao, Senior Advocate a/w Mr. Dharmesh Shah and Mr. Akshay Gosavi for the Respondent.

CORAM : B. R. GAVAI &

SANDEEP K. SHINDE, JJ.

DATE : 9th OCTOBER, 2017

PC.

1] The Petitioner challenges the concurrent order passed by the presiding officer of the learned DRAT dated 12th September, 2017 vide which the Appeal preferred by the present Petitioner against the order dated 30th November, 2012 passed by the learned DRT came to be dismissed.

2] The learned counsel for the Petitioner submits that provisions of 176 of the Contract Act are not available to the Applicant – Bank since the Petitioner is not an 'Pawner'.

3] The learned Tribunal has found that under Section 176 of the Contract Act, it is a discretion of the Bank either to sell goods or file

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suit for recovery of the debts. The view taken by the learned DRAT is on the basis of the judgment of the Division Bench of this Court in the case of **State Bank of India Vs. Smt. Neela Ashok Naik and another**¹. In that view of the matter, no interference is called in the concurrent findings of the DRT and DRAT. The Petition is accordingly dismissed.

[SANDEEP K. SHINDE, J]

[B. R. GAVAI, J]

¹ AIR 2000 Bombay 151 .