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

WRIT PETITION NO.289 OF 2016

Vidya Manohar Hazare .... Petitioner
Vs.
HDFC Bank Limited .... Respondent

Ms Jyoti Chavan for the Petitioner.
Mr. Chetan Chandulal Agrawal for the Respondent.

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

DATE : APRIL 07, 2017

P.C:

1. This petition challenges an interim order passed by the Debts Recovery Appellate Tribunal at Mumbai. The petitioner is the original appellant/applicant in Miscellaneous Application No.155 of 2011.

2. She filed an appeal before the Debts Recovery Appellate Tribunal challenging an order dated 22-4-2014. That order was passed by the Presiding Officer of the Debts Recovery

Tribunal-III, Mumbai.

3. The Debts Recovery Appellate Tribunal was requested to grant an interim protection. An application being Miscellaneous Application No.536 of 2014 was filed. The precise argument which is now canvassed before us by Ms Chavan that the petitioner/appellant had no knowledge about the proceedings against the borrower, was raised. The next argument was that the application for condonation of delay in filing the appeal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, “the SARFAESI Act”) was rejected and erroneously.

4. In such circumstances, request was made by this very petitioner to waive the condition of pre-deposit so that the appeal can be entertained unconditionally.

5. The learned Chairperson of the Debts Recovery Appellate Tribunal, mindful as he was of the mandate of Section

18 of the SARFAESI Act and that does not enable him to grant unconditional waiver unless there are strong reasons to come to a conclusion otherwise found that Section 13(2) notice was issued on 10-3-2010 in the sum of Rs.15,34,224.30 and since the appellant/petitioner before us has dealt with this very property which was the subject-matter of an order under Section 14 of the SARFAESI Act and passed on 23-5-2011, the Chairperson balanced the rights and equities. As against the total debt which amounts to Rs.15 lakhs and more, the appellant is directed to deposit Rs.7 lakhs. This is to show her *bona fides*.

6. We do not see how such an order can be challenged in writ jurisdiction. Neither that order had been complied with nor even till date the sum has been brought. In the circumstances, the appeal stood dismissed for want of compliance of the statutory requirement.

7. We do not see any justification for interference with such an order of the learned Chairperson. He has imposed a condition which is reasonable, fair and just. Eventually, he has

to balance the rights of both sides and when the respondent-Bank has to recover a huge sum by way of an outstanding loan. In the circumstances, there is no merit in the petition and it is dismissed. No costs.

8. At the request of Ms Chavan, the *status quo* to continue for a period of four weeks.

(PRAKASH D. NAIK, J.) (S.C. DHARMADHIKARI, J.)