

Amk

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1313 OF 2018

Mr. Ketan Karani	.. Petitioner
Vs.	
State Bank of India	.. Respondent

Mr. Siddharth Samantarey i/b Vivek V. Phadke for the Petitioner.
Mr. Dileep Shriram Paranjpe for the Respondent No.1.

CORAM : A. A. SAYED & V. L. ACHLIYA, JJ.
DATE : 27th MARCH, 2018.

P. C. :

1. On 01.02.2018 leave was granted to the Petitioner to add the tenant as party-Respondent. It was stated before the Court that the Petitioner and the tenant are ready to pay an amount of Rs.3,20,00,000/- to the Respondent-Bank and a request was made for time to make payment. Since the matter was pending before Debt Recovery Appellate Tribunal, we disposed of the Petition in the following terms:

4. Since the matter is already before the DRAT, we are not inclined to keep the Petition pending in this Court. The Petition is, therefore, disposed of in the following terms:

i) The Petitioner shall file an undertaking before this Court by tomorrow i.e. 02.02.2018 that the Petitioner and/or his tenant would deposit an amount of Rs.3,20,00,000/- with the Respondent Bank on or before 09.03.2018.

ii) The Petitioner shall handover the draft of Rs.15,00,000/- to the Respondent Bank during the course of the day.

iii) The Petitioner shall also file an undertaking of the tenant who stated to be in possession of the flat by 12.02.2018 (as he

stated to be out of Mumbai) to the effect that he and/or the Petitioner would deposit amount of Rs.3,20,00,000/- with the Respondent Bank by 09.03.2018.

iv) It is clarified that if any amount is paid in the DRT/DRAT, that amount would be adjusted in the aforementioned amount of Rs.3,20,00,000/-.

v) This order is passed without prejudice to the rights and contentions of the parties.

vi) It is further made clear that in the event any default is committed in respect of any compliance stipulated above, the benefit of this order shall not be available to the Petitioner/tenant.

vii) The parties shall appear before the DRAT on 12.03.2018 at 11.00 a.m. with copy of this order.

viii) The Respondent Bank shall defer taking possession of the said flat until 12.03.2018 or until the failure of any of the aforesaid compliances being made by the Petitioner and/or the tenant, whichever is earlier.

2. On 05.02.2018 the Petitioner moved the Court seeking extension of time to deposit the amount and this Court has passed the following order:

1. Mentioned. No on board.

2. The matter already stands disposed of vide order dated 01.02.2018. By way of indulgence and inasmuch as the Petitioner has already paid the amount of Rs.15 lacs to the Respondent-Bank, we extend the time to 07.02.2018 to carry out the amendment. The Undertaking of the Petitioner dated 05.02.2018 is taken on record. The learned Counsel for the Petitioner states that the Undertaking given by the tenant shall be filed by 09.03.2018 as recorded in the order dated 01.02.2018.

3. Thereafter on 08.03.2018 the Petitioner again approached the Court

with request to extend the time and this Court passed the following order:

1. *Learned Counsel for the Respondent No.1 Bank states that if the amount in terms of the order dated 1 February 2018 is paid by the Petitioner, the Respondent No.1 Bank will release the flat in question. Learned Counsel for the Petitioner states that the amount would be paid on 13 March 2018 by a Demand Draft in terms of the order dated 1 February 2018 and time may be extended. Time is accordingly extended.*
2. *It is expected of the Petitioner to bring the Draft of Rs.3,05,00,000/- (after adjustment of Rs.15,00,000/-) on that day.*
3. *Stand over to 13 March 2018.*
4. In terms of the aforesaid orders, undertakings have also been filed.
5. Learned counsel for the Petitioner on instructions states that the Petitioner could not make necessary arrangement to bring the demand draft of Rs.3,05,00,000/- as directed by the Court.
6. In the circumstances, no further orders required to be passed in the Petition. This Court has shown sufficient indulgence. The Petition is already disposed of.
7. The statement of the learned Counsel for the Petitioner is recorded that the Petitioner shall hand over the possession of the Flat No.403, 3rd Floor, Chandralok, "B" Block, Manav Mandir Road, Malabar Hill, Mumbai 400 006 to the Respondent-Bank by 31.03.2018.

[V. L. ACHLIYA, J.]

[A. A. SAYED, J.]