

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

WRIT PETITION NO.2875/2018

Indu Nissan Oxo Chemical Industries Ltd. ... Petitioner

V/s.

ICICI Bank Ltd. & Ors. ... Respondents

Mr. Aseem Naphade a/w. Mr. Arun Mehta I/b. M/s. Akshar Laws
for the Petitioner

Ms. Gargi Bhagwat a/w. Ms. Apoorv Karekar I/b. M/s. Divekar
Bhagwat & Co. for Respondent No.1.

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : NOVEMBER 1, 2018

P.C. :

1 Heard. After arguing for some time, both the counsel agreed that the T.O.A. No.1441/2016 pending before the Debts Recovery Tribunal be decided as early as possible but in any case within one year from today. At the same time, the learned counsel for the Petitioner submits that they will not press their appeal/application pending before the Debts Recovery Tribunal and/or Debts Recovery Appellate Tribunal arising out of the present proceedings. He further submits that the Petitioner is ready and willing to deposit sum of Rs.7,50,000/- as security deposit instead of Rs.15 lacs as stated in the agency agreement dated 18.06.2018. He further submits that the Petitioner is

ready and willing to deposit the monthly compensation of Rs.5,00,000/- in the Debts Recovery Tribunal till the hearing and final disposal of the said Application. For this purpose, the learned counsel for the Respondent Bank agreed.

2 Both the counsel filed Consent Terms to this effect.

3 The learned counsel for the Petitioner submits that Mr.Mehool N. Bhuva, CEO of the Petitioner, who has authority to execute the Consent Terms, is present in court.

4 The learned counsel for the Respondent No.1 submits that Mr. Avinash Puntambekar, Constituted Attorney of the Respondent Bank is present in court.

5 Both the parties to the Consent Terms entered into witness box and admit the contents of the Consent Terms and execution thereof. Same are taken on record and marked "X" for identification. The Consent Terms read thus:

"CONSENT TERMS BETWEEN THE PETITIONER AND RESPONDENT NO. 1

It is agreed between the Petitioner and the Respondent No. 1 as follows:

- 1) The Transfer Original Application No. 1441 of 2016 ("T.O.A. No. 1441 of 2016") filed by the Respondent No.1 against the Petitioner and Others, which is pending before the Hon'ble

Debt Recovery Tribunal – I at Mumbai shall be heard and finally disposed off within a period of 1 year from today. The pleadings in T. O. A. No.1441 of 2016 shall be completed within a period of 2 months from today.

- 2) The Petitioner has executed an Agency Agreement dated 18.6.2018 with Thakkar Auctioneer & Realtors Pvt. Ltd., the Receiver appointed by the Hon'ble Debt Recovery Tribunal – I, Mumbai (“the DRT Receiver”), pursuant to an Order dated 28.3.2018 passed in the present Writ Petition.
- 3) The Petitioner shall deposit with the DRT-I Registrar, an amount of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only) as Security Deposit without interest on or before 1st January 2019 and Clause 1 of the aforesaid Agency Agreement shall stand modified to that extent.
- 4) The Petitioner shall pay to the DRT-I Registrar, the Royalty/ Compensation /Rent of Rs.5,00,000/- as per Clause 2 of the aforesaid Agency Agreement from the month of November 2018 and continue to pay the same till the final disposal of the T. O. A. No. 1441 of 2016.
- 5) The arrears of Royalty/ Compensation /Rent of Rs. 5,00,000/- payable as per Clause 2 of the aforesaid Agency Agreement for the months June 2018 to October 2018, aggregating to Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) shall be paid by Petitioner to the DRT-I Registrar on or before 1st January 2019.

- 6) The Security Deposit amount and/or the monthly Royalty / Compensation/ Rent amount paid by the Petitioner to the DRT-I Registrar as per Clauses 3 to 5 above, shall be invested by the DRT-I Registrar in Fixed Deposit in any Nationalized Bank to the credit of the T.O.A. No. 1441 of 2016 for a period of 1 year. Such amounts invested in Fixed Deposit shall be paid to the Respondent No. 1 or the Petitioner subject to the outcome of the T.O.A. No. 1441 of 2016.
- 7) In case the Petitioner commits default in making payment of the Security Deposit amount and/or the monthly Royalty / Compensation/ Rent amount as per Clauses 3 to 5 above, then the DRT Receiver shall forthwith take possession of the immovable and movable properties more particularly described in Exhibit 'B' to the T. O. A. No. 1441 of 2016.
- 8) All Interim Applications pending in the T. O. A. No. 1441 of 2016 and all Appeals arising from the Orders passed in such Interim Application shall stand disposed off in terms of these Consent Terms.
- 9) The Petitioner has challenged the terms and conditions of the aforesaid Agency Agreement and has accordingly filed a Miscellaneous Application in Miscellaneous Appeal No.14 of 2018 before the Hon'ble Debt Recovery Appellate Tribunal, Mumbai, pursuant to the liberty granted by this Hon'ble Court and the same is pending. The Petitioner will file the same Application before the Hon'ble Presiding

Officer, Debt Recovery Tribunal -I in T.O.A. No. 1441 of 2016 and same will be considered on merits at the time of final hearing of T.O.A. No. 1441 of 2016. The Miscellaneous Appeal No.14 of 2018 and the Interim Applications therein shall stand disposed off in terms of these Consent Terms.

10) The present Writ Petition shall stand disposed off in terms of these Consent Terms.

11) No orders as to cost.

Dated this 1st day of November 2018.

For Indu Nissan Oxo Chemical Industries Ltd.

(Mr. Mehool N. Bhuva)
CEO
Petitioner

(Mr. Avinash Puntambekar
Constituted Attorney of
ICICI Bank Limited)
For Respondent No.1

For Akshar Laws

Arun H. Mehta
Proprietor
Advocates for Petitioner

Ms. Gargi Bhagwat
M/s. Divekar Bhagwat & Co.
Advocates for Respondent No.1”

6 The Debts Recovery Tribunal is directed to decide T.O.A. No.1441/2016 as early as possible but in any case within one year from today.

7 The Writ Petition stands disposed of in terms of Consent Terms.

8 The parties to act on an authenticated copy of this order.

(N. J. JAMADAR, J.)

(K. K. TATED, J.)