

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2224 OF 2018**

Sankalp Developers & ors.

...Petitioners

vs.

Bank of India & ors.

...Respondents

Mrs. Merlyn Monteiro-Vasudeo for the Petitioners.

Mr. Mane, AGP for State.

Mr. Raju U. Shinde a/w. Ms. Tamil Selvi for Respondent Nos. 1 to 3.

Mr. Rushikesh Gawde, Branch Manager.

**CORAM : A.A. SAYED &
M.S. KARNIK, JJ.**

DATE : JULY 23, 2018

P.C.:

*Heard learned Counsel for the Petitioners and learned
Counsel for the Respondents.*

2. *By the impugned order dated 18/6/2018, the DRAT dismissed the Appeal of the Petitioners and confirmed the order dated 25/5/2018 of DRT. By order dated 25/5/2018, the Interlocutory Application No. 1261 of 2017 of the Bank was allowed by DRT, the operative part whereof reads as follows :-*

- A. *Interlocutory Application no. 1261/2017 is made absolute in terms of prayer clause (a) with no order as to costs.*
- B. *Order dated 17th October, 2016 is hereby recalled.*

3. *The aforementioned order dated 17th October, 2016 of DRT reads as follows :-*

ORDER

1. *The applicant to deposit the further sum of Rs.20 Lakhs with defendant bank directly within a period of 8 weeks from today. Defendant bank is at liberty to appropriate the sum of Rs.20 Lakhs so deposited.*
2. *In the meantime the parties shall maintain the status-quo till further order with respect to shop no.8.*
3. *All contentions between the parties are kept open.*
4. *All concerned to act on the authenticated copy of this order, to be issued on payment of appropriate court fees.*
5. *For further hearing of IA No. 1369/2016, Stand over to 02nd December, 2016.*

4. *Thus the aforesaid order dated 17th October, 2016 granting status-quo in respect of Shop No.8 was recalled by the order dated 25th May, 2018 by DRT. It is an admitted position before the Court that after an extension was sought by the Petitioners, in addition of the amount of Rs.20 lakhs, an amount of Rs.10 lakhs as directed by DRT was deposited by the Petitioners with the Respondent – Bank and the order dated 17th October, 2016 was complied with. In these circumstances, the observations in the impugned order dated 25th May, 2018 that the Petitioners have not complied with the orders of the DRT are clearly erroneous. Unfortunately even DRAT has overlooked this aspect. In the*

circumstances, the impugned order dated 18th June, 2018 of DRAT and the order dated 25th May, 2018 of DRT cannot be sustained and are required to be set aside. We record the statement of learned Counsel for the Respondent - Bank that the sale in respect of the auction purchaser has been confirmed. It is however not disputed before the Court that the possession of the secured asset i.e. Shop No.8 is still with the Petitioners. Hence the following order :-

ORDER

- i) The impugned order dated 18th June, 2018 of DRAT and order dated 25th May, 2018 of DRT are set aside.*
- ii) The matter is remitted back to the DRT to decide the Interlocutory Application No. 1261 of 2017 afresh.*
- iii) We record the statement of learned Counsel for the Petitioners that the Petitioners will file reply to Interlocutory Application No. 1261 of 2017 within one week.*
- iv) The parties to maintain status-quo until the decision of the Interlocutory Application No.1261 of 2017.*
- v) It will be open for the DRT to decide the Securitization Application itself.*

5. The Writ Petition is disposed of with aforesaid terms.

(M.S. KARNIK, J.)

(A.A. SAYED, J.)