

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.2571 OF 2017

M/s.Arohi Commercial Pvt.Ltd.	...	...Petitioner
v/s.		
Central Bank of India		...Respondent
...		
Ms.Shirin Shaikh i/b Raval Shah & Co. for the Petitioner.		
Mr.O.A.Das for the Respondent.		
...		

CORAM : A.A. SAYED &
V.L.ACHLIYA, JJ.
DATED : 15 JANUARY 2018

P.C.:

The Petition impugns an order dated 16-08-2017 passed by the DRAT, which reads as follows:

“ORDER

Appellants and Advocate for Appellants absent. Advocate for Respondent Bank is present.

In spite of posting the matter under caption of dismissal, no interest is evinced by Appellants in prosecuting the Appeal, therefore, same is dismissed for non-prosecution.”

2. It is submitted by the learned Counsel for the Petitioner that the health of the Advocate of the Petitioners was deteriorating and he was not attending to his matters regularly. It is also pointed out that the brother-in-law of the Petitioner No.2, who was also the brother of the Petitioner No.3

was critically ill and succumbed to his illness in August 2017 and consequently, the Petitioner was left unrepresented on certain dates of hearing as neither the Petitioner's Advocate nor the Petitioner were present for the hearing.

3. Having regard to the submissions urged, in the interest of justice, the Petition deserves to be allowed subject to cost.

4. In the circumstances, the Petition is allowed in terms of prayer clause (a), subject to cost of Rs.10,000/- to be paid by the Petitioner to the Respondent-Bank within two weeks from today. Prayer clause (a) reads as under:

(a) That this Hon'ble Court may be pleased to issue Writ of Certiorari or such other Writ in the nature of Certiorari by calling the papers and proceedings of Appeal No.40/2011 and order dated 16-08-2017 dismissing the Appeal No.40/2011 and after verifying the legality and propriety of the same, the order dated 16-08-2017 dismissing Appeal No.40/2011 be set aside and Appeal No.40/2011 be restored to file.

5. The parties shall appear before the DRAT on 5 February 2018 at 11 a.m. alongwith a copy of this order.

(V.L.ACHLIYA,J.)

(A.A.SAYED, J.)