

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

WRIT PETITION (L) NO.3106 OF 2018

Yogesh Harilal Ranpura and Ors. .. Petitioners

V/s.

NKGSB Co-operative Bank Ltd. .. Respondent

Mr.Jamshed Ansari for the petitioners

Mr.Pranay Juvekar i/b Mr.Sanjay Anabhawane for the respondent

**CORAM: K.K. TATED &
SANDEEP K. SHINDE, JJ.**

DATED : SEPTEMBER 10, 2018

P.C. :

1 Heard the learned counsel for the parties.

2 By this petition under Article 226 of the Constitution of India, the Petitioner challenges the order dated 05.09.2018 passed by Debts Recovery Appellate Tribunal at Mumbai in M.A.No.547 of 2018 in Appeal No.42 of 2018 rejecting their Application for extention of time to deposit the amount as directed in order dated 06.08.2018 in M.A.No.467 of 2018.

3 The learned counsel for the Petitioner submits that in view of the

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order dated 05.09.2018, DRAT also rejected their Appeal No.42 of 2018 by order dated 05.09.2018. The learned counsel for the Petitioner submits that initially the DRAT by order dated 06.08.2018 in M.A.No.467 of 2018 permitted Petitioner to deposit 50% of Rs.9,26,416/- in two instalments i.e. to deposit first instalment of Rs.4,00,000/- on or before 07.08.2018 and remaining amount of RS.5,26,416/- within four weeks thereafter i.e. on or before 04.09.2018.

4 The learned counsel for the Petitioner submits that they deposited amount of Rs.4,00,000/- on or before 07.08.2018. He submits that thereafter, the Petitioner deposited Rs.1,26,416/- on 04.09.2018 and filed Miscellaneous Application for extension of time to deposit balance amount of Rs.4,00,000/- being M.A.No.547 of 2018. He submits that the said Application was rejected by DRAT. Hence, they preferred the present Writ Petition.

5 After arguing for some time, both the counsel submitted Minutes of Order dated 10.09.2018 duly signed by Petitioner as well as Respondent and their advocate. Same is taken on record and marked 'X' for identification which reads thus:

“MINUTES OF ORDER

1. By consent of the parties, the order dated 5th September 2018 passed in Misc-Application No. 547 of 2018 passed by DRAT, Mumbai and order dated 5th September 2018 passed by DRAT, Mumbai in Appeal No. 42 of 2018 is hereby set aside. The Appeal No. 42 of 2018 is restored to file and the same may be decided by DRAT, Mumbai on its own merit.

2. The Petitioner is permitted to deposit the sum of Rs. 4,00,000/- (Rupees Four lakhs only) in DRAT, Mumbai on or before 15th September 2018.

3. Upon depositing the above sum of Rs.4,00,000/-, the Registrar DRAT, Mumbai shall release the entire sum of Rs. 9,26,416/-, with accrued interest to the respondent Bank and the respondent Bank may appropriate/adjust the said amount in the loan account of the Petitioner.

4. Writ petition is disposed-off accordingly.”

6 Writ Petition stands disposed of in terms of Minutes of Order with clarification that if Petitioner failed and neglected to deposit sum of Rs.4,00,000/- in DRAT, Mumbai on or before 15.09.2018, Writ Petition stands dismissed without referring back to the court.

7 Writ Petition stands disposed of accordingly.

8 No order as to costs.

Parties to act on authenticated copy of this order.

(SANDEEP K. SHINDE, J.)

(K.K. TATED, J.)