

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

WRIT PETITION NO.2565 OF 2018

Jairamdas M. TalrejaPetitioner
V/S
Bank of Baroda & Ors.Respondents
...

Ms. Asha Bhuta for the Petitioner.
Mr. A.R. Bamne a/w Mr. Nilesh Bamne and Ms. Vidya Sonawane i/b
Mr. A.R. Bamne & Co. for Respondent No.1/Bank.

**CORAM : A.A. SAYED &
A.S. CHANDURKAR, JJ.**
DATE : 07 DECEMBER 2018.

ORDER:

1 Learned Counsel for the Respondent Bank does not dispute that in view of the judgment and order of the Division Bench of this Court in **Dr. Anil Nandkishor Tibrewala vs. Jammu and Kashmir Bank Ltd., 2007(3) BomCR 941**, the Miscellaneous Application before the DRT under section 19(25) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as 'the RDB Act') filed by the Petitioner would be maintainable. Both DRT and DRAT by the impugned orders have however held that the Application under section 19(25) of the RDB Act is not maintainable. In the circumstances, the impugned orders cannot be sustained. Hence, the following order:

ORDER

- i) The impugned order of DRAT dated 15 September 2017 in Appeal No.233 of 2015 as well as the impugned order of DRT dated 24 July 2015 in Miscellaneous Application No.50 of 2013 is set aside.
- ii) The matter is remanded to the DRT to decide the Miscellaneous Application No. 50 of 2013 afresh. In the event the Petitioner seeks to amend the Miscellaneous Application, the same shall be considered sympathetically by the DRT.
- iii) The DRT shall decide the Miscellaneous Application expeditiously.
- iv) Pending the hearing and final disposal of the Miscellaneous Application, the interim order dated 19 December 2017 of this Court directing that the Respondent Bank shall not take further steps pursuant to the attachment of the flat in question shall continue to operate.

2 The Petition is disposed of in the aforesaid terms.

(A.S. CHANDURKAR, J.)

(A.A. SAYED, J.)