

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

CONTEMPT PETITION NO. 492 OF 2018

Dr. Suman Shivaji Rathod	...	Petitioner
V/S		
Indian Overseas Bank And Ors.		Respondents
	...	
Mr. R V Sipahimalani for the Petitioner.		

...
CORAM : A.A. SAYED &
A.S.GADKARI, JJ.

DATED : 14 JANUARY 2019

P.C.:

The present Contempt Petition is filed by the original Appellant in Appeal No.184 of 2014 pending on the file of the Debt Recovery Appellate Tribunal (DRAT), Mumbai. The Petitioner has contended that, the order dated 12-02-2015 passed in Writ Petition No.1388 of 2015 has been breached/disobeyed by the Respondents.

2. Heard the learned Counsel for the Petitioner at length. Perused the record.

3. By an order dated 12-02-2015 passed in Writ Petition No. 1388 of 2015, the interlocutory order i.e. the order of pre-deposit, passed by the DRAT was stayed by this Court. It is the contention of the learned Counsel for the Petitioner that grant of stay to the interlocutory impugned order would automatically amount to stay of the proceedings of Appeal which was

pending on the file of the DRAT and in view thereof, the Petitioner did not remain present before the DRAT in Appeal No.184 of 2014. He further submitted that by an order dated 6-02-2017, the said interim Order was continued by this Court and therefore also it was incumbent on the part of the DRAT not to proceed with the Appeal and the Counsel for the Bank ought to have informed the DRAT accordingly.

4. The record indicates that as the Petitioner did not remain present before the DRAT on various occasions and the said Appeal was placed under the caption "for Dismissal" on 29-12-2016. On that day also none remained present on behalf of the Petitioner before the DRAT and therefore the Tribunal dismissed the Appeal for non-prosecution. The record further discloses that feeling aggrieved by the said order dated 29-12-2016, the Petitioner filed Civil Application No.1864 of 2017 in Writ Petition No.1388 of 2015 making grievance about the said dismissal of his Appeal for non-prosecution. By a reasoned order dated 3 August 2017, the co-ordinate Bench of this Court was pleased to restore the said Appeal on the file of the DRAT with a direction to Tribunal to decide the Appeal on its own merits.

5. The aforesaid facts clearly indicate that the Appeal No.184 of 2014 was pending on the file of DRAT, Mumbai for its final adjudication. It is to be noted here that by an order dated 12-02-2015, this Court had granted stay to the impugned order therein, i.e. an order of pre-deposit. This Court did

not grant stay to the further proceedings of the said Appeal before the DRAT by the said order and therefore, the Petitioner cannot be permitted to take benefit of her own wrong by raising a specious plea that, after grant of interim relief by this Court on 12-02-2015, she harboured an impression that, the entire proceedings of the Appeal, before the DRAT were automatically stayed and her presence before the DRAT on the date fixed for hearing was not necessary. We find no substance in the said contention.

6. In the circumstances, we find no merit in the Contempt Petition. No contempt is committed by any of the Respondents of the order dated 12-02-2015.

7. The Petition is accordingly dismissed in limine.

(A.S.GADKARI,J.)

(A.A.SAYED, J.)