

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.19881 OF 2019

|                                              |             |
|----------------------------------------------|-------------|
| M/s.Kalpik Polyplastic Industries and others | Petitioners |
| versus                                       |             |
| Central Bank of India                        | Respondent  |

Mr.Siddharth Samantaray with Mr.Yogesh K. Deshpande for  
Petitioners.

Mr.T.N.Tripathi with Ms.Kalyani Wagle I/byu T.N.Tripathi & Co. for  
Respondent no.1.

CORAM : A.A.SAYED AND  
PRAKASH D. NAIK, JJ.

DATE : 19<sup>th</sup> July 2019

PC :

1. The challenge in the petition is to the order dated 5<sup>th</sup> July 2019 of the DRAT whereby the Appeal of the Petitioners was dismissed for non prosecution.

2. In the impugned order it is recorded that time was sought on the ground that arguing counsel for the Petitioners was in personal difficulty. The DRAT was not inclined to grant further time and dismissed the Appeal for non prosecution. It is not disputed before the Court that on 16<sup>th</sup> February 2017 the arguments of Petitioners in the Appeal were heard and were concluded. We have also perused the Roznama. We have noticed that when the impugned order was passed, even the learned Counsel for Respondent was not present. In the Appeal, some adjournments have been sought by Respondent-bank and some adjournments were sought by consent. On some

occasions the matter was required to be adjourned as the Chairperson of DRAT was on leave and thereafter DRAT has ceased to function for some time in view of the fire that had broken out at the building where the DRAT is housed.

3. In the facts and circumstances of the case and in the interest of justice, we are of the view that the Petitioners ought to be granted an opportunity to have the Appeal decided on merits. Hence, we pass following order :

#### **ORDER**

- (i) The impugned order of DRAT dated 5<sup>th</sup> July 2019 is set aside;
- (ii) The parties shall appear before the DRAT on 5<sup>th</sup> August 2019 at 11 am and appropriate directions as to hearing may be issued by the DRAT;
- (iii) We record the assurance of learned counsel for parties that no further adjournments will be sought;

4. The Petition is disposed of in the aforesaid terms. The interim protection granted by DRAT shall stand extended until disposal of Appeal.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)