

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST NO.28473 OF 2019

Amin Noorali Rangara & Anr	.. Petitioners
Versus	
State Bank of India	.. Respondents

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Mr. Sidharth Samantaray i/b Ms.Pallavi Kulkarni for the petitioners.

Mr.Sharanbasappa i/b Rathina Maravarman for the respondents.

CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.

DATED : 5th NOVEMBER, 2019

P.C:-

1 Taken on Board on a mention due to the urgency of the matter.

2 Grievance of the petitioner concerns the order dated 4th November 2019 passed by the Debt Recovery Appellate Tribunal (DRAT) in Miscellaneous Application No.743 of 2019 filed in Miscellaneous Appeal No.74 of 2019. As noted in the order, the prayer made in Miscellaneous Application No.743/2019 was to wave the statutory deposit as required by Section 18 of Secutirization And Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002.

3 The impugned order notes that the claim of the Bank was in sum of ₹ 39 crores out of which ₹ 5 crores was realized by sale of a property and hence the amount payable would be ₹ 34 crore. The Appellate Tribunal has noted that as per law, 50% of ₹ 34 crore was required to be deposited as a condition to hear the Appeal.

4 The Tribunal has granted time to the petitioners to make the pre-deposit in two instalments being ₹8.5 crore as first instalment within two weeks i.e. on or before 18th November 2019 and ₹ 8.5 crore as second instalment on or before 2nd December 2019.

5 A peremptory limb of the order records that failure to deposit any instalment would result in automatic dismissal of the Appeal.

6 To protect the interest of both the parties, it has been ordered that moment the first instalment is deposited, parties would require to maintain status quo.

7 Now, if the first instalment had to be deposited on 18th November 2019 postponing the status quo date would create problems and indeed has created a problem.

8 As per learned counsel for the Bank, the authorized officer of the Bank with police aid has already taken possession and for which the counsel has shown to us on the mobile phone photographs uploaded by the authorized officer on WhatsApp. Learned counsel for the petitioners has also shown to us photographs uploaded on WhatsApp showing that even as of now, police is present in the house and an inventory is being made.

9 Under the circumstances, since the Appellate Tribunal has granted time to the petitioners to make good 50% deposit in two instalments of ₹ 8.5 crore each by 18th November 2019 and 2nd December 2019, we dispose of the Petition directing that till 18th November 2019, the possession of the petitioners qua the flat in question would not be disturbed.

10 The police shall withdraw from the flat. The inventory of the goods made, shall be signed by the parties and the petitioners will not remove the goods without the permission of the DRAT.

11 If there is default by the petitioners, the respondent would be free to take possession.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE