

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1905 OF 2019

...

Mohamed Azam

...Petitioner

V/S

The Hongkong And Shanghai Banking
Corporation Limited (hsbc) And Anr.

...Respondents

...

Mr.Bipin Jayantilal Joshi a/w Adv.Prayag Joshi for the Petitioner.
Mr Santosh Bhide i/b Bhide and Associates for Respondent No.1.

...

CORAM : A.A. SAYED &**PRAKASH D. NAIK, JJ.****DATED : 8 AUGUST 2019****P.C.:**

Learned Counsel for the Petitioner has tendered an Undertaking of the Petitioner dated 8 August 2019. Paragraphs 2, 3 & 4 of the Undertaking read as under:

"2. I say that upon filing of present affidavit of undertaking I hereby make payment of Rs.20,00,000/- (twenty Lakhs only) to Respondent No.1 through Demand Draft dated 03-08-2019 bearing No.002759 drawn on HDFC Bank, Chennai Branch.

3. I say that upon payment of aforesaid amount of Rs.20,00,000/-, as on 30 September 2019 the balance amount of Rs.45,00,000/- is due and payable to Respondent No.1 for regularization of account.

4. I hereby undertake to this Hon'ble Court that the aforesaid balance amount shall be paid to the Respondent No.1 on or before 30-09-2019, so that the account will be regularized. I hereby further undertake to this Hon'ble Court that, in the event if I fail to make payment of said balance amount of Rs.45,00,000/- on or before 30-09-2019, than the possession of the flat shall be forthwith handed over to the Respondent No.1."

2. Learned Counsel for the Respondent-Bank has pointed out that over and above the amount of Rs.45,00,000/- there would be further amount of approximately Rs.2,60,000/- towards overdue interest as on 30 September 2019. Learned Counsel for the Petitioner states that the said amount would also be paid by the Petitioner to the Respondent-Bank alongwith the balance amount of Rs.45 lakh, which is to be paid by 30 September 2019. We accept the statement of the learned Counsel for the Petitioner.

3. Learned Counsel for the Petitioner has handed over a demand draft in a sum of Rs.20 lakh to the learned Counsel for the Respondent-Bank in Court.

4. In view of the above, we extend the time granted by the DRT, as stated in the aforesaid Undertaking of the Petitioner. The Respondent-Bank shall defer taking possession of the flat in question until 30 September

2019. We make it clear that in the event the Undertaking is not complied with and possession of the flat in question is not handed over in case of failure to pay the balance amount of Rs.47,60,000/- (approximately) before 30 September 2019, the Petitioner may also be liable for action under the Contempt of Courts Act.

5. We accept the Undertaking of the Petitioner and dispose of the Petition in the aforesaid terms.

6. Place the Petition under the caption “for Directions” on 4 October 2019 for reporting compliance.

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)