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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11587/2019**

BANK OF MAHARASHTRA

..... Petitioner

Through: Mr. Tarunvir Singh Khehar,
Advocate.

versus

**M/s. ACCURATE TRANSFORMERS LTD. AND
ORS.**

.... Respondents

Through: Mr. Sanjeev Bhandari, Ms.
Priyadarshini Verma, Mr. Prateek Kumar,
Ms. Aarohi Mikkilineni, Advocates for
Respondents 8 and 9.

**CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH**

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**ORDER
06.11.2019**

CAV. PET. 1091/2019

1. Since the learned counsel for the Respondents have put in appearance, the caveat is discharged.

CM APPL. 47607-08/2019 (Exemption)

2. Allowed, subject to all just exceptions. The applications are disposed of.

W.P.(C) 11587/2019 and CM APPL. 47606/2019 (Stay)

3. The present petition is directed against an order dated 21st October, 2019 passed by the Debt Recovery Appellate Tribunal ('DRAT') dismissing the Miscellaneous Appeal No. 601/2018 of the Petitioner Bank of Maharashtra which was directed against an order dated 12th October, 2018 of the Debt Recovery Tribunal-III (DRT-III), whereby the plea of the Petitioner for attaching the properties of Accurate Education and Research Society ('Society') and Mrs. Pushpa Sharma (Respondent Nos. 8 and 9 in the present writ petition) was declined.

4. For the purposes of the present writ petition, it is sufficient to note that O.A. No. 1260/2017 was filed by the Petitioner Bank along with two other consortium banks before the DRT against the main borrowers i.e. Accurate Transformers Limited, its directors, and its group entities namely M/s. Meter India, M/s. Maharashtra Meters Private Limited, Accurate Chemicals and another bank, viz., the IDBI Bank. The Society and Mrs. Pushpa Sharma were not parties to OA 1260/2017.

5. While continuing the credit facilities to the original borrower by letter dated 28th December 2015, the Petitioner obtained signatures of other entities belonging to the 'Accurate Group', viz., M/s. Maharashtra Meters Pvt. Ltd., and M/s. Meter India apart from the main borrower i.e. Accurate Transformers Ltd. Clause 13 of this letter required "all the securities in other A/cs of this Accurate group' to be pooled together within three months. The expression 'this Accurate group' did not include the Society which, as already noted, was not even a party to the O.A.

6. Consequently, the DRT-III by the order dated 12th October, 2018 declined to attach the properties of the Society. It is the said order dated 12th October, 2018 that was taken in appeal by the Petitioner before the DRAT.

7. Apparently, *qua* the Society, there are separate proceedings instituted by the Bank before the DRT, Lucknow. Learned counsel appearing on behalf of the Society informs the Court that at no point of time has the Society stood as guarantor for the credit facilities advanced to the main borrower, i.e. Accurate Transformers Ltd. or any other entity of the 'Accurate Group'. He also drew attention to how at the time of filing the appeal before the DRAT, the present Petitioner, in the cause title of the appeal, referred to the Society and Mrs. Sharma as 'non-applicants' i.e. not as Respondents.

8. In the impugned order, the DRAT has taken exception to the Bank not disclosing before the DRAT at the time when notice was issued in the appeal on 2nd January, 2019 that the Society was not a guarantor to the loans and credit facilities advanced to the 'Accurate Group' entities. More particularly, DRAT has taken exception to Bank not disclosing the institution of separate proceedings against the Society before the DRT Lucknow in which there was a proposal to settle the dues with the Society under some settlement scheme. The non-disclosure of the above facts was viewed seriously by the DRAT leading it to imposing costs of Rs.5 lakhs upon the Petitioner while dismissing its appeal.

9. Mr. Tarunvir Singh Khehar, learned counsel for the Petitioner, submitted that the *bona fide* misunderstanding that the 'Accurate Group' included the

Society as well was due to the fact that the properties of the Society were also available to the Bank for attachment for recovery of dues owed by the 'Accurate Group'.

10. Having perused the documents placed on record, the Court is not persuaded by the above submission. It appears that the Bank was throughout aware of the fact that the Society was not a part of the 'Accurate Group'. There is not a single document placed on record to show that the Society at any time stood as guarantor for the credit facilities extended to the 'Accurate Group' entities. Mr. Kehar was not able to dispute the fact that there are separate proceedings instituted by the Bank against the Society before the DRT, Lucknow in which some settlement is sought to be arrived at. In the circumstances, the attempt made by the Bank to have the properties of the Society attached in O.A. No. 1260/2017 before the DRT, to which the Society is admittedly not a party, is inexplicable.

11. Mr. Kehar then earnestly pleaded that Petitioner being a public sector Bank ought not to have been saddled with costs of Rs.5 lakhs. The Court is not persuaded even by this submission. It is indeed a serious matter that material facts having a bearing on the appeal were not disclosed by the Petitioner before the DRAT till a Show Cause Notice was issued to it. Even at the time of obtaining an ex-parte order on 2nd January 2019, the above facts were not brought out.

12. Consequently, the writ petition is dismissed. However, the time for the Petitioner to deposit Rs.5 lakhs in terms of the impugned order of the

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DRAT is extended by two weeks from today. The pending application is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 06, 2019

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