

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 5649 OF 2017

Dr. Satish Vasudeo Gosavi

.. Petitioner

Vs.

ICICI Bank Ltd. & Ors.

.. Respondents

Mr. S. S. Patwardhan for the Petitioner.

Mr. Shakib Dhorajiwala i/b Vidhi Partners for Respondent No.1.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATE : 7th FEBRUARY, 2020.

P. C. :

1. Challenge in the Writ Petition is to the order dated 18.04.2017 passed in Misc. Application No. 149 of 2016 filed in Appeal No. 49 of 2016. The Petitioner was the Appellant. The order has been passed by the learned DRAT.
2. O.A. 146 of 2010 filed by the 1st Respondent against Krishna Education Society, Mr. Vinayak Jayakar Patil and the Petitioner, impleaded as Defendant Nos.1, 2 and 3 was allowed by the Debt Recovery Tribunal vide order dated 19.11.2015. A decree in sum of ₹ 27,48,662.50 with interest @ 11% p.a. from 24.05.2010 till realization was passed.
3. The decree made the three Defendants jointly and severally liable. The Petitioner was impleaded in the capacity as a guarantor which status was not denied by the Petitioner. His defence was that he had no

knowledge of the disbursement of the loan. He claims that he had no knowledge of the recall notice and the notices sent to him as the guarantor.

4. Defence was not made good.

5. Under the Recovery of Debts and Bankruptcy Act, 1993 Appeal lies under Section 20 to the Appellate Tribunal which as per Section 21 requires 50% of the debt due and determined to be deposited with power in the Appellate Tribunal to reduce the same by not less than 25%.

6. The impugned order records that no ground was shown justifying reduction of the pre-deposit amount to less than 50%.

7. In the Writ Petition the only ground taken is that the guarantee was not invoked.

8. Suffice it to state, as per the Original Application reference was made to the letter by which the guarantee was invoked. The case of the Petitioner in defence was that he had no knowledge of the same.

9. Filing the claim Petition and its service was itself a notice upon the Petitioner that the guarantee was being invoked.

10. Thus, we find no merit in the Writ Petition which is dismissed.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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