

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13590 OF 2018

Oriental Bank of Commerce

..Petitioner

Versus

M/s. Lahoti Exports Pvt. Ltd. & Ors.

..Respondents

None for the Petitioner.

Mr. Sayyam Maheshwari i/by Raval-Shah & Co., Advocate for
Respondent Nos.1, 2 & 4.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 7th JANUARY, 2020

P.C.

1] None appears for the Petitioner.

2] The Petitioner filed Original Application No.634 of 2001 under Section 19 of the RDB Act, 1993 impleading M/s. Lahoti Exports Pvt. Ltd. and its three directors as the Defendants pleading that the Bank had advanced credit to the Defendant No.1 company. It was pleaded that at the asking of the Defendant No.1 the Bank had issued an irrevocable letter of undertaking to one M/s. Jagdish Oil Extractions Pvt. Ltd. and to honor the commitment on behalf of the Defendant No.1 had to pay ₹ 64,60,809 to M/s. Jagdish Oil Extractions Pvt. Ltd. It was pleaded in the Original Application that the Defendants were liable to pay said amount. In a nutshell, the

claim was based upon the alleged payment made on behalf of Defendant No.1 to M/s. Jagdish Oil Extractions Pvt. Ltd.

3] The case of the Defendants was that they had not ever authorised the Bank to issue any letter of undertaking on their behalf to M/s. Jagdish Oil Extractions Pvt. Ltd. They pleaded having cleared all the dues of the Bank and that a 'No Dues Certificate' was issued by the Bank on 19.11.1998.

4] The Original Application was dismissed by the learned DRT-III, Mumbai on 5th December 2005 holding that the Bank had led no evidence to prove that at the asking of the Defendants undertaking was issued by the Bank to M/s. Jagdish Oil Extractions Pvt. Ltd. The Tribunal also noted that the Defendants had proved the 'No Dues Certificate' issued in the name of the Defendant No.1 which was Exh.39/3. Needless to state that the Original Application was dismissed.

5] Appeal filed by the Bank before learned DRAT has been dismissed vide impugned order dated 23rd February 2017. Learned DRAT has noted the 'No Dues Certificate' dated 19.11.1998 issued by the Petitioner in favour of Respondent No.1. Learned Appellate Tribunal has also noted that the Petitioner could not show any evidence led before learned DRT that at the asking of the Defendants it had issued a letter of undertaking. Xerox copy of an alleged affidavit has been held to be of no use. The learned DRAT has highlighted that

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in the Original Application there was no plea that any affidavit by any of the director of Defendant had been deposed to.

6] Needless to state the dispute is one of fact.

7] We have gone through the Writ Petition and do not find any plea drawing attention of this Court to any evidence allegedly overlooked by the DRT or learned DRAT.

8] The Writ Petition is nothing but a rehash of the pleadings in the Original Application.

9] Thus we find no merit in the Writ Petition which is dismissed.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

Balaji
G.
Panchal

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