

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6772 OF 2021**

Banoobai Mohammed Hussain Ghaswala ... Petitioner
Versus
Bank of Baroda ... Respondent

Mr. Siddharth Samantarey i/by Ms. Sonali Jain, for Petitioner.
Mr. Ronak Parekh with Mr. Charu Budhadev i/by Interjuris, for Respondent.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : 12th OCTOBER, 2021

P.C. :

1. By the above Writ Petition, the Petitioner interalia seeks the following reliefs :

- (a) This Hon'ble Court may be pleased to pass an appropriate order to dispose off the Misc. Appeal No.42 of 2019 along with all the applications filed therein in view of the settlement arrived at in between the parties under the OTS sanction Scheme letter dated 05/08/2021;
- (b) This Hon'ble Court may be pleased to direct the Hon'ble DRAT, Mumbai / Ld. Registrar, DRAT Mumbai to release / refund an amount of Rs.1,26,93,095/- deposited with the Ld. Registrar, DRAT, Mumbai on 07/05/2019, 27/05/2019 and 18/06/2019 along with the accrued interest thereon while disposing off the Misc. Application seeking waiver No.363 of 2019 in Misc. Appeal No.42 of 2019 in favour of the Petitioner and in turn enabling the Petitioner to deposit the said amount with the Respondent Bank or may be pleased to pass an order to release the said amount directly to the Respondent Bank to be appropriated and adjusted towards the OTS sanction Scheme towards the borrowers loan account as mentioned

above;”

2. The Petitioner has filed an Appeal before the Debt Recovery Appellate Tribunal (DRAT) being Miscellaneous Appeal No.42 of 2019, impugning an order dated 26th April, 2019 passed by the Debt Recovery Tribunal (DRT). In the said Appeal, Miscellaneous Application No.363 of 2019 was taken out by the Petitioner. The Chairperson of the DRAT after considering the submissions of the parties to the said Miscellaneous Application No. 363 of 2019, passed an order dated 7th May, 2019 directing the Petitioner to deposit 50% of the notice amount i.e. Rs.1,26,93,095/- for entertaining the Appeal. Pursuant to the said order, the Petitioner from time to time i.e. on 7th May, 2019, 27th May, 2019 and 18th June, 2019 deposited amounts aggregating to Rs.1,26,93,095/- with the Registrar, DRAT.

3. Respondent bank has forwarded its letter dated 5th August, 2021 to the Principal Borrower sanctioning a One Time Settlement. The Principal Borrower as well as the Guarantors have accepted the terms and conditions set out by the bank in its letter dated 5th August, 2021. One of the term set out in the said letter requires the amount of Rs.1,26,93,095/- deposited by the Petitioner with the DRAT to be forthwith transferred to the Respondent Bank along with accrued interest if any towards the OTS offer.

4. We are informed that at present the Office of the Chairperson of the DRAT is vacant and if the aforestated requirement of the One Time Settlement is not

implemented by the Petitioner as agreed, grave and irreparable harm, loss, injury and prejudice will be caused to the Petitioner.

5. The learned Advocate appearing for the Respondent Bank states that he has no objection if the reliefs sought by the Petitioner is granted.

6. In view thereof, we pass the following order :

(i) Misc. Appeal No.42 of 2019 along with Misc. Application filed therein stand disposed of in view of the settlement arrived at between the parties under OTS Letter dated 5th August, 2021.

(ii) The Writ Petition is allowed in terms of prayer clause (b) to the extent of directing the Registrar, DRAT to **forthwith** transfer an amount of Rs.1,26,93,095/- along with interest accrued thereon, if any, to the Bank of Baroda, Bandra (W) Branch, Mumbai.

(iii) The Writ Petition is accordingly disposed of.

7. All concerned to act on an ordinary copy of this order duly authenticated by the Private Secretary / Personal Assistant of this Court.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)