

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH
AT AURANGABAD**

WRIT PETITION NO. 4221 OF 2019

Dena Bank a Body Established
and Constituted under the Banking
Companies Through Authorized
Signatory .. Petitioner

Versus

M/s Siddharth Pulses through
Proprietor and others .. Respondents

Shri S. V. Adwant, Advocate for the Petitioner.

Shri P. S. Gaikwad, Advocate h/f Shri A. G. Talhar, Advocate for
the Respondent Nos. 1 to 3.

Shri V. D. Sapkal, Senior Advocate i/by Shri Vijay Patil, Advocate
for the Respondent No. 4.

**CORAM : MANGESH S. PATIL AND
SANDEEP V. MARNE, JJ.**

CLOSED FOR ORDERS ON : 07.09.2022

ORDER PRONOUNCED ON : 15.09.2022

FINAL ORDER (Per Sandeep V. Marne, J.) :-

. By the present petition, petitioner bank challenges the judgment and order dated 11 January 2019 passed by the Debt Recovery Appellate Tribunal, Mumbai (for the sake of brevity hereinafter referred as to the "D.R.A.T.") in Appeal Nos. 136 of 2017 and 107 of 2010 to the extent it sets aside paragraph Nos. 6, 7 and 8 in the operative part of the judgment and order dated 20 April 2010 passed by the Debt Recovery Tribunal, Aurangabad (for the sake of brevity hereinafter referred as to the "D.R.T.") in Original Application No. 26 of 2008.

2. The dispute has arisen on account of competing claims of the

petitioner bank and the respondent No. 4 bank over the goods belonging to the respondent Nos. 1 to 3. Both banks extended credit facilities to the respondent Nos. 1 to 3 against security of *inter alia* same stock and movable goods. The stock and the goods have been sold in pursuance of the permission granted by the D.R.T. and which bank is entitled to claim sale proceeds, is the issue which arose before the D.R.T. and the D. R. A. T. and which again arises for our consideration.

FACTS

3. A brief factual narration as prologue to our judgment would be necessary. The petitioner bank had made available cash credit facility of Rs. 4 crores to the respondent No. 1. Towards security, an agreement of hypothecation dated 05 December 2007 was executed in favour of the petitioner bank thereby hypothecating the stock consisting of Moong and Moong Dal (Pulses) as well as movable properties as more particularly detailed in the agreement. On 10 June 2008, the petitioner bank filed Original Application No. 26 of 2008 against the respondent Nos. 1 to 3 before the D.R.T. Aurangabad for recovery of dues of Rs. 4,07,42,396.49 paise.

4. By way of interim order dated 11 June 2008, the D.R.T. issued conditional attachment order of hypothecated goods of the respondent No. 1 that were stacked and stored with the Maharashtra State Warehousing Corporation, Jalgaon. In the meantime, the respondent No. 4 bank filed its objection before the D.R.T. to register its own claim premised on pledge of same goods executed in its favour before execution of the hypothecation agreement with the petitioner bank. The respondent No. 4 bank

filed Writ Petition No. 5267 of 2008 before this Court, in which it was directed that the D.R.T. would decide the rights of the respondent No. 4 bank as pledgee and thereafter issue appropriate directions for the release of the money. This is how the respondent No. 4 bank was permitted to participate in the proceedings filed by the petitioner bank before the D.R.T. By order dated 30 July 2008, the D.R.T. granted permission for sale of hypothecated movable goods lying at the warehouse through a three member committee consisting of members of both the banks and the borrower. The stock has accordingly been sold and sale proceeds came to be deposited with the D.R.T.

5. By judgment and order dated 20 April 2010, the D.R.T. allowed the original application against the respondent Nos. 1 to 3 directing them to jointly and severally pay the amount of Rs. 4,07,42,396.49 to the Petitioner bank along with future interest at the rate of 12%. The original application against the respondent No. 4 bank was dismissed. The claim of the respondent No. 4 bank in respect of sale proceeds of pledged goods was allowed to the extent of Rs. 19,65,185/- along with future interest @ 18% and the respondent No. 4 bank was allowed to withdraw the said amount out of the sale proceeds. The hypothecation claim of the petitioner bank in respect of sale proceeds was allowed, however, it was allowed to withdraw only the balance amount of sale proceeds.

6. Aggrieved by the order of the D.R.T. Aurangabad, both the banks filed their respective appeals bearing Appeal No. 136 of 2017 and Appeal No. 107 of 2010. By judgment and order dated 11 June 2019, which is impugned in the present petition, the D.R.A.T. has disposed of both the appeals by common judgment and order. It set aside paragraph Nos. 6, 7 and 8 of the operative

part of the order of D.R.T. Aurangabad. The D.R.A.T. arrived at a finding that the petitioner bank failed in establishing hypothecation over the goods of the respondent No. 1 and was therefore not entitled to any relief in respect thereof. So far as the claim of the respondent No. 4 bank in respect of pledged goods was concerned, the D.R.A.T. held that the respondent No. 4 bank may get the sale proceeds only through necessary recovery process. It was therefore held that D.R.T. was not justified in allowing the respondent No. 4 bank to withdraw the sale proceeds of pledged goods.

7. We are now tasked upon to decide correctness of the judgment and order dated 11 June 2019 passed by the D.R.A.T., Mumbai. We must indicate at the outset that only the petitioner bank is aggrieved by the order of the D.R.A.T. and the respondent No. 4 bank has accepted the findings of the D.R.A.T. that it is required to undertake the requisite recovery process in respect of its own dues. It appears that the respondent No. 4 bank has already procured recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 against the respondent No. 1 on 21 July 2010. After passing of order by the D.R.A.T., the respondent No. 4 bank has filed necessary application before the D.R.T. for withdrawal of the deposited amount on the basis of the said recovery certificate dated 21 July 2010. This Court by order dated 14 July 2022 directed that pendency of the present petition would not come in the way of D.R.T. in deciding such application of the respondent No. 4 bank on its own merits. We are informed that the D.R.T. Aurangabad has accordingly heard and decided application of the respondent No. 4 bank in its favour. However, the said decision of the D.R.T.

is not subject matter of challenge before us and, therefore, we need not dwell anything more into the same.

SUBMISSIONS

8. Appearing for the petitioner bank Mr. Adwant, the learned counsel would submit that the D.R.T. did not have necessary jurisdiction to decide any claim/objection filed by the respondent No. 4 bank. In support of his contention, he relies upon the judgment of the Apex Court in the case of **Greater Bombay Co-operative Bank Ltd. Vs. United Yarn Tex (P) Ltd. and others** reported in **(2007) 6 SCC 236**. He would further submit that the order passed by this Court on 02 September 2008 in Writ Petition No. 5267 of 2008 cannot be construed to mean as if jurisdiction was conferred on D.R.T. to decide objection of the respondent No. 4 bank. He would submit that conferment of jurisdiction is a legislative function, which cannot be conferred either by consent of the parties or by an order of superior court. He would rely on the judgment of the Apex Court in the case of **Jagmittar Sain Bhagat and others Vs. Director Health Services Haryana** reported in **(2013) 10 SCC 136**. He further submits that mere direction to 'consider' the objection of the respondent No. 4 would not otherwise mean that the jurisdiction was conferred upon the D.R.T. In support of this submission, he would rely on the decision of the Apex Court in the case of **A.P.S.R.T.C. and others Vs. Shrinivas Reddy and others** reported in **(2006) 6 SCC 674** and in the case of **C. Jacob Vs. Director of Geology and Mining and another** reported in **(2008) 10 SCC 115**. He would further submit that in absence of any counterclaim or set off filed by the Respondent No. 4 bank, DRT or DRAT could not have granted any relief in its favour in Original Application filed by Petitioner bank.

9. Inviting our attention to the hypothecation agreement dated 05 December 2007, Mr. Adwant would contend that both present as well as future goods received by the respondent No. 1 were hypothecated. Further referring to the affidavit in reply filed before the D.R.A.T. in Misc. Appeal No. 296 of 2008, filed by the respondent No. 4 bank, Mr. Adwant would contend that there was an admission that only the goods in stock prior to December 2007 were pledged with the respondent No. 4 bank and the goods received after December 2007 were hypothecated with the petitioner bank. He would submit that most of the goods have been received by the respondent No. 1 after execution of the hypothecation agreement in December 2007 and, therefore, the respondent No. 4 bank did not have any claim in respect of those goods.

10. Relying on the decision of the Division Bench of the Madras High Court in the case of **Rehaboth Traders by Partners R. Franklin Vs. Canara Bank** reported in **(1998) 2 BC 10 (DB)**, Mr. Adwat would contended that delivery of possession of goods is not a *sine qua non* for hypothecation as it involves creation of an equitable charge. He would therefore submit that the petitioner bank was justified in creating hypothecation of goods lying in possession of the Maharashtra Warehousing Corporation, Jalgaon. He contradicts the findings recorded by the D.R.A.T. to the effect that there was no whisper of inspection reports either in the pleadings or in the evidence by inviting our attention to the claim affidavits filed by the bank officials. He therefore submits that the petitioner bank had proved hypothecation beyond doubt and that the D.R.A.T. has committed an error in recording a finding that it has failed in establishing the relief for hypothecation.

11. Per contra Mr. V. D. Sapkal, the learned Senior Advocate appearing for the respondent No. 4 bank has invited our attention to the correspondence that took place between the two banks before execution of the hypothecation agreement. Referring to the said correspondence, Mr. Sapkal would contend that the petitioner bank had full notice of the factum of pledging of the goods with the respondent No. 4 bank and, therefore, the petitioner bank ought not to have extended any credit facilities to the respondent No. 1 by executing hypothecation of the very same goods which were already pledged with the respondent No. 4 bank. Mr. Sapkal would further invite our attention to the letter dated 31 May 2008 sent by the petitioner bank to the respondent No. 4 bank, in which a request was made to mark lien/charge on the stock only in respect of residual amount. Mr. Sapkal places reliance on the hypothecation agreement to show that the goods were shown to be in the possession/occupation of the borrower in that agreement. He would submit that the goods were admittedly in possession of the Maharashtra Warehousing Corporation and on this ground also the hypothecation did not have any legal effect.

12. Mr. Sapkal would further submit that under the Maharashtra Warehousing Act, 1960, there is provision for the warehouse receipt which can be transferred by an endorsement. He would submit that since the goods were stored with the Maharashtra Warehousing Corporation, there could not be any pledge or hypothecation in absence of the requisite warehouse receipt. He would draw our attention to the 'Notice to the Bank's Lien Of Specific Goods' issued by the respondent No. 4 bank to the Maharashtra State Warehousing Corporation in respect of the pledged goods. Mr. Sapkal would pray for dismissal of the writ

petition with exemplary costs inviting our attention to the fact that even though the appeal was filed by the petitioner bank before the D.R.A.T. in the year 2010, the same was kept pending for removal of objections and was numbered only in the year 2017. This, according to Mr. Sapkal, was done with a view to delay the process of the respondent No. 4 bank receiving its dues from sale proceeds deposited with the D.R.T.

13. Mr. Gaikwad, learned advocate appearing for the respondent Nos. 1 to 3 has submitted that the respondent Nos. 1 to 3 have accepted the order passed by the D.R.A.T. Mumbai.

14. Rival contentions of the parties, now fall for our consideration.

Reasons and analysis

15. The competing claims of both the Banks over sale proceeds of same goods fell for determination before the DRT and DRAT. Their respective claims were premised upon hypothecation deed and pledge executed by Respondent No. 1 in respect of same goods. D.R.T. and the D.R.A.T. were tasked upon to decide the issue enforceability of hypothecation executed in favour of Petitioner Bank and pledge executed in favour of Respondent No. 4 bank. The claim of Petitioner bank was undoubtedly within the jurisdiction of DRT, whereas Respondent No. 4 bank, being a co-operative bank, could not invoke jurisdiction of DRT to independently pursue its claim. On account of peculiar circumstances where Petitioner bank would have appropriated the sale proceeds of the goods, pledge in respect of which was claimed by Respondent No. 4 bank, that the Respondent No. 4 bank was

required to intervene in the original application filed by Petitioner bank.

16. The D.R.T. initially upheld both the pledge of the respondent No. 4 bank as well as hypothecation of the petitioner bank, but accorded priority to the claim of the respondent No. 4 bank by permitting it to withdraw amount of Rs. 19,65,185/- with interest out of the sale proceeds of the goods. The petitioner bank was allowed to withdraw only the balance amount of sale proceeds. In cross appeals filed by both the parties, the D.R.A.T. has completely rejected the claim of the petitioner bank over the goods alleged to have been hypothecated with it. So far as the pledge with the respondent No. 4 bank is concerned, the same is merely noticed, but no relief is granted in its favour relegating it before appropriate forum to press its claim for the recovery based on such a pledge.

17. Since respondent No. 4 bank has accepted the order passed by the D.R.A.T., we are not called upon to decide the enforceability or otherwise of the pledge executed by the respondent No. 1 in favour of the respondent No. 4 bank. However, since the D.R.A.T. has held that the petitioner bank has not been able to establish its claim of hypothecation, enforceability of Petitioner's hypothecation is the narrow controversy, which we are tasked upon to decide in the present petition.

18. First, we consider the submissions of Mr Advant that (i) D.R.T. did not have jurisdiction to entertain claim of Respondent No. 4 bank, (ii) jurisdiction could not be construed to have been conferred by order passed by this court and (iii) in absence of any

counterclaim or set off filed by the Respondent No. 4 bank, DRT or DRAT could not have granted any relief in its favour in Original Application filed by Petitioner bank. According to us, these submissions have been rendered academic on account of the Order that has been passed by the D.R.A.T., which has set aside the relief granted by D.R.T. in favour of Respondent No. 4 bank. Since the relief earlier granted in favour of the respondent No. 4 bank for the withdrawal of amount of Rs. 19,65,185/- has already been set aside by the D.R.A.T., the issue of jurisdiction of D.R.T. in passing such an order no longer survives. Similarly, the issue of non-filing of counterclaim or a set off by Respondent No. 4 bank also does not survive. Therefore, we need not burden this judgment by discussing the judgments relied upon by Mr. Advant in support of these submissions and record our findings thereon.

19. However even though we have arrived at a conclusion that the issue of jurisdiction of D.R.T. has been rendered academic on account of rejection of claim of Respondent No. 4 bank, it may well be argued that in absence of jurisdiction, even the pledge of Respondent No. 4 ought not to have been considered by the D.R.A.T. Here, we must observe that the pledge executed in favour of Respondent No. 4 bank has been considered by the D.R.A.T. solely for the purpose of determining the issue of enforceability of hypothecation executed in favour of Petitioner bank. D.R.A.T. has not determined enforceability of otherwise of that pledge. This court had permitted Respondent No. 4 bank to intervene in the original application filed by Petitioner bank and such order was passed after hearing the Petitioner bank. Even though the D.R.T. initially had committed a possible error in awarding the claim of Respondent No. 4 bank, D.R.A.T. has corrected that error by

relegating Respondent No. 4 bank to appropriate jurisdiction. The award of monitory claim in favour of Respondent No. 4 bank has already been set aside. Thus it cannot be contended by any stretch of imagination that the claim of Respondent No. 4 has been entrained or decided as a result of order passed by the D.R.A.T. Merely because the pledge executed in favour of Respondent No. 4 bank is taken into consideration for determining enforceability of hypothecation executed in Petitioner's favor would not mean that any jurisdictional error is committed by D.R.A.T. The case involved peculiar circumstances where DRT did not have jurisdiction to entertain claim of Respondent No. 4, but the claim of Petitioner depended upon the issue of enforceability of hypothecation deed executed in its favor, which issue could not be decided without noticing the pledge executed in favour of Respondent No. 4. In our view therefore, D.R.A.T. has rightly noticed the pledge only for the purpose of determining the enforceability of hypothecation without entertaining the claim of Respondent No. 4 in any manner.

20. Now we proceed to examine the findings recorded by the D.R.A.T. with regard to hypothecation executed in favour of the petitioner bank. As observed hereinabove, the D.R.A.T. has held that the petitioner bank failed to prove its claim of hypothecation of goods and that the goods were free from encumbrances as on the date of hypothecation agreement i. e. 05 December 2007. With regard to the issue of hypothecation, D.R.A.T. has held as under :

"14. I have perused Hypothecation Agreement dated 05.12.2007, Stock Statements dated 09.01.2008, 09.02.2008, 10.03.2008, 10.05.2008, Letter dated 16.10.2007 of Dena Bank addressed to Defendant No. 4 and reply of Defendant No. 4 dated 18.10.2007 along with format enclosed to that letter.

It is not in dispute that Applicant Bank has entered into Hypothecation Agreement only on 05.12.2007. Advocate for Applicant contended when Applicant Bank called for some information and details in the format, Defendant No. 4 has not furnished full details and suppressed details of pledge. Though Advocate for Applicant Bank contended that information is not furnished in the format, no material is placed to show that format relied on by Defendant No. 4 is not a recognized format and in the absence of such material we have to go by format by which information is furnished. According to this format information relating to nature of Bank Accounts is required to be furnished, for which Defendant No. 4 gave Current Account details and pledge of goods loan Account. If really Applicant Bank is not satisfied with the information furnished in the format it should have immediately responded by pointing out the correct format, or at least seeking clarification of further details relating to pledge of goods. Applicant Bank has not sought any clarification nor replied to the letter dated 18.10.2007 but proceeded with loan transaction. When Applicant Bank has got sufficient time i.e. from 18.10.2007 to 05.12.2007 it ought to have enquired to confirm that goods offered as hypothecation are free from encumbrances. Normally any bank is expected to make a physical verification of stock even before entering into any agreement. But here, bank has not placed any material to show that one of its officers has physically verified the stock before accepting the offer of the Borrower. Though Advocate for Applicant Bank submitted that as per their records an inspection was conducted on 06.12.2007, but there is no pleading to that effect in the O.A., or there is any evidence produced, therefore, that submission at the stage of Appeal without pleading and evidence cannot be considered. According to Advocate for Applicant Bank, Dena Bank is satisfied with the Stock Statements furnished by borrowers for creating hypothecation. But, I am not in agreement with submission of Ld. Counsel for Applicant because some further check is required to be done with the offer of the Borrower before accepting such offer for hypothecation. One of the contentions of the Advocate for Applicant Bank is that primary burden is on the Defendant No. 4 to lead evidence to prove that there is a pledge prior to hypothecation. When Defendant No. 4 informed to the Applicant Bank by way of letter dated 18.10.2007 about pledge of goods, it is for the Applicant Bank to prove and establish that there was no pledge in favour of Defendant No. 4 on the goods hypothecated to Applicant Bank. This burden is heavy on the Applicant Bank because of its

admission through letter dated 31.05.2008 wherein it is clearly stated that Defendant No. 1 has lodged stock at warehouse and obtained advance from Defendant No. 4 against warehouse receipts and requested Defendant No. 4 bank to mark lien of Applicant Bank on stock and if sale of stock is taken place residual amount to be credited to Applicant Bank. In this letter there is no ambiguity, on the other hand clarifies that Defendant No. 4 has advanced money to M/s Siddharth Pulses on the stock which was at warehouse and the claim of the Applicant Bank is only towards residual amount. Referring to this letter, Advocate for Applicant Bank tried to argue that it is not binding on the Bank because of it is issued without any authorization. This submission cannot be accepted because nothing is placed in the O.A. about this letter, if really this letter is issued without any authorization, the Applicant Bank ought to have taken action against erring officer, but admittedly till now no such action is initiated. It is very easy to say something to disown document which is against the party. When the said letter dated 31.05.2008 is from one of the Branches of the Applicant Bank i.e. Jalgaon Branch without any convincing evidence, same cannot be discarded for the simple reason submitted as an argument.

Simple issue to be examined is whether the goods on which Applicant Bank claim right of hypothecation were free from encumbrances and available for such hypothecation. For that, only prima facie examination as to the pledge pleaded by Defendant No. 4 is necessary, but not adjudication as to the correctness of the pledge. From the correspondence between Defendant No. 4 and its borrower and Defendant No. 4 and warehouse authority, it is clear that very same goods were pledged with Defendant No. 4 much prior to advancing loan by Dena Bank to Defendant No. 1 to 3. Even in the Hypothecation Agreement dated 05.12.2007 it is only mentioned that the goods in course of transit to any godowns, jathas or place whatsoever and wheresoever in the possession or occupation of the Borrower are hypothecated. There is no reference about warehouse in the entire Hypothecation Agreement and it is not known how the Applicant Bank claim goods in the warehouse as that of hypothecated when no reference is made in the Agreement. It is also not known at what place the officers of Applicant Bank inspected the stock because no such inspection reports are placed on record. There is not even a whisper about these inspection reports, either in the pleadings or in the evidence. In the agreement dated 05.12.2017, address of movables and other assets is

referred to as (1) J-77, MIDC, Jalgaon of Sidharth Pulses, (2) D-10, MIDC, Jalgaon of Sidharth Industries. But the description with regard to movable properties is stated as plant, machinery, tools and accessories, stores, spares, relating to the plant & machinery, furniture, articles, office equipments, computers, and things belonging to the borrower and lying and being at their premises/factories, but there is no reference about stock in trade or goods i.e. Moongdal which are referred to under the head 'goods' in the document dated 05.12.2007. So as rightly pointed by advocate for Defendant No. 4 it is primary duty of the Applicant Bank to prove hypothecation and to show that by the date of agreement dated 05.12.2007 those goods are free from encumbrances. On examination of material there cannot be any hesitation in holding that the Applicant Bank failed in both i.e. in proving hypothecation and that the goods were free from encumbrances on the date of agreement i.e. 05.12.2007. Therefore, submissions of Advocate for Applicant with reference admissibility of pledge documents has no relevancy."

21. We have gone through the correspondence exchanged between both the banks before execution of the hypothecation agreement. By letter dated 16 October 2007, the petitioner bank sought confidential report of credit facilities extended to Sidharth Pulses and Sidharth Industries by the respondent No. 4 bank. By letter dated 18 October 2007, such confidential report was shared by the respondent No. 4 bank specifically stating that the credit facilities involved pledge of goods. Thus, the petitioner bank was aware of the fact that the goods of the respondent No. 1 were already pledged with the respondent No. 4 bank, though the exact description of goods pledged was not disclosed in the report. However, having noticed that there was already a pledge of goods, it was incumbent upon Petitioner bank to enquire about the exact goods that were pledged. Despite this, the petitioner bank proceeded to execute the hypothecation agreement dated 05 December 2007. The petitioner bank was, however, always aware that the hypothecation was in respect of the same goods which

were already pledged with the respondent No. 4 bank. This is evidenced by letter dated 31 May 2008 sent by the petitioner bank, which is reproduced as under :

DENA BANK

Ref. No. TL/Adv/122/2008-09
31/5/2008

JALGAON (MAHAJI BAZAR)
BRANCH, Mahaji Bazar, Navi
Peth, Jalgaon 425 001
Gram : DENABANK
Phone : 0257 - 229897

To,
The Branch Manager,
Hasti Co-operative Bank Ltd.,
Jalgaon (MS)

Sir,

Ref. : Advance to M/s Sidharth Pulses.

We refer our Letter dated 30/05/2008, wherein we inform you that M/s Sidharth Pulses have been enjoying credit facilities from us Rs. 4.00 cr.

M/s Sidharth Pulses has lodged the stock at warehouse and obtained the advance from you against warehouse receipt.

Kindly, mark our lien/charge on stock and if sale of stock, residual amount will be credited to us.

Kindly do the needful.

Thanking you,

Yours Faithfully,
Sd/-

FOR DENA BANK NAVI PETH JALGAON

22. Thus, there is no iota of doubt that the petitioner bank always believed that its claim in respect of already pledged goods was limited to the extent of residual amount thereby acknowledging the prior claim of the respondent No. 4 bank. A feeble attempt was made before the D.R.A.T. by the petitioner bank to come out of the consequences of the letter dated 31 May 2008 on the pretext that the letter was without any authorization.

The D.R.A.T. has rightly rejected the said contention in absence of any pleadings or evidence in that regard.

23. The D.R.A.T. has further proceeded to hold that the hypothecation agreement was executed without making any attempt to undertake the exercise of inspection of the goods. In the Agreement, the stock was shown to be in "possession and occupation" of the borrower. Contrary to this, the stock was stored in the warehouse of the Maharashtra Warehousing Corporation.

24. After going through the entire material placed on record, we do not find that the D.R.A.T. has committed any error in arriving at a finding that the petitioner bank was not able to establish that the goods were free from encumbrance as on the date of execution of hypothecation agreement and, that therefore, the hypothecation could not be established.

25. Earlier D.R.T. had erroneously upheld claims of both the banks without appreciating that the pledge of the respondent No. 4 and hypothecation of the respondent No. 1 in respect of the same goods could not co-exist. The D.R.T. had also committed an error in entertaining and awarding claim in favour of the respondent No. 4 bank thereby exposing its order to a jurisdictional challenge. The D.R.A.T., in our opinion, has set the things right by rejecting the hypothecation claim of the petitioner bank and by merely recording the pledge claim of the respondent No. 4 bank. The relief granted in favour of the respondent No. 4 bank by the D.R.T. for the withdrawal of the amount has rightly been set aside relegating the respondent No. 4 bank to remedies available to it for the recovery of its dues. The respondent No. 4 bank has

accepted the order of the D.R.A.T. and has accordingly proceeded to pursue its remedy for the recovery of its dues which resulted in issuance of the recovery certificate dated 21 July 2010 under Section 101 of the Maharashtra Co-operative Societies Act. We therefore find that the D.R.A.T. has not committed any error in passing the impugned judgment and order. The findings recorded by the D.R.A.T. do not suffer from the vice of perversity, nor any jurisdictional error is committed while recording the same. The view taken is a plausible view and is supported by the material placed on record. There is therefore no scope for our interference in exercise of writ jurisdiction.

26. The petition filed by the petitioner bank is devoid of any merits. The same is accordingly dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]

27. After pronouncement of the judgment, Ms. Kamble, learned advocate holding for Mr. Adwant, learned advocate for the petitioner requests for stay to the operation of the judgment and order to enable the petitioner bank to approach the Supreme Court.

28. For the reasons for which we are rejecting the petition coupled with the fact that no interim relief is in operation till date, the request for stay is rejected.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]