

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.863 OF 2022

KDK Hospitality Packaging Private
Limited (Borrower) & Ors.

... Petitioners

Vs.

Bank of India

... Respondent

Ms. Leona Furtado i/by Pan India Legal Services LLP for Petitioners.
Mr. Biju N. Jacob for Respondent.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.

DATED : 12th AUGUST 2022

PC. :

1. Ms. Leona Furtado seeks leave to withdraw the Petition since
Petitioners have approached the Debt Recovery Tribunal-III, Mumbai.

2. Petition dismissed as withdrawn.

3. On 28th January, 2022, the following order came to be
passed :-

“PC. :

1. The petitioners, being the debtors of the respondent-Bank, are challenging a sale notice issued by the respondent-Bank dated November 21, 2021 in this writ petition. Such notice is under challenge before the Debts Recovery Tribunal-III, Mumbai (hereafter “DRT-III”, for

short) in Securitisation Application No. 163 of 2021; however, since the office of the Presiding Officer of the DRT-III is vacant, the writ jurisdiction of this Court has been invoked.

2. This writ petition is being entertained in view of the order dated December 16, 2021 passed by the Supreme Court of India in Special Leave Petition (C) No. 10911 of 2021 (State Bar Council of Madhya Pradesh Vs. Union of India).

3. We have heard Mr. Krishnan, learned advocate appearing for the petitioners and Mr. Ramesan, learned advocate appearing for the respondent-Bank.

4. Mr. Krishnan admits that Rs.1.70 crore is due and payable to the respondent-Bank, whereas it is the claim of Mr. Ramesan that Rs.2.48 crore is due and payable by the petitioners. Since the DRT-III is non-functional and the petitioners are not in a position to seek remedy before it, we are inclined to stay the process of sale subject to the terms and conditions indicated hereafter:

(i) The respondent-Bank may carry on with the process of sale by auction, but for a period of 3 weeks from date shall remain restrained from confirming the sale in favour of the successful auction purchaser.

(ii) The petitioners shall pay to the respondent-Bank Rs.1.25 crore within the aforesaid period of 3 weeks.

(iii) Tender of such payment and acceptance thereof shall be without prejudice to the rights and contentions of the parties to this writ petition.

(iv) In the event, the petitioners make payment of the requisite amount within the stipulated time as aforesaid, the interim order granted above shall continue to operate until further orders of this Court.

(v) Should the petitioners' default in making payment as aforesaid, the interim order of stay shall stand vacated forthwith upon expiry of 3 weeks from today and thereafter, the respondent-Bank shall be at liberty to proceed in accordance with law including confirming the sale and issuing the sale certificate in favour of the successful auction purchaser.

5. *The writ petition shall be listed on February 22, 2022 for further consideration on reporting of compliance of this order.”*

4. Mr. Jacob states that Petitioners have not deposited/paid the amount of Rs.1.25 crores/-. Ms. Leona Furtado concurs with Mr. Jacob. Therefore, as provided in Paragraph 4(v) of the order quoted above, it is clarified that there is no interim order in force.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)