

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7275 OF 2022

Raman Naganlal Bohara
versus

: Petitioner

H.D.F.C. Bank Ltd.

: Respondent

Mr. Miheer Jayakar a/w Mr. Gunjan Jayakar i/by Sunil Jayakar for
Petitioner.

Mr. Chetan C Agrawal for Respondent.

Mr. Anurag Shirke – Area Legal Manager – HDFC Bank present.

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

DATE : 04th OCTOBER 2022

P.C.

1 Petitioner has filed this writ petition impugning order dated
10th May 2022 passed by the Debts Recovery Appellate Tribunal and order
dated 27th February 2015 (incorrectly mentioned as “2014” in the prayer
clause) passed by the Debts Recovery Tribunal in Miscellaneous Application
filed by Petitioner before the Debts Recovery Tribunal.

2 Petitioner was originally Defendant in Original Application
No.242 of 2008 filed by Respondent-Bank in Debts Recovery Tribunal No.III
(DRT) for recovery of sum of Rs.29,81,299.54 plus interest. Petitioner

entered appearance on receipt of writ of summons through an advocate. Petitioner had also filed certain application for interrogatories to be received before filing written statement and was participating in the proceedings before DRT. It seems, on certain dates due to personal health of Petitioner, he could not remain present in DRT, and judgment dated 27th June 2014 came to be passed. It seems even the advocate did not remain present for whatever reasons. Against the judgment, Petitioner filed Miscellaneous Application for recalling the judgment and to hear the matter afresh which application came to be rejected by order dated 27th February 2015. Against that order, Petitioner preferred an Appeal before the DRAT. Petitioner's Appeal came to be dismissed by order dated 10th May 2022. This is the background for Petitioner having approached this Court.

3 Having considered the matter for some time, without prejudice to the rights and contentions of both the parties and keeping open all their rights and contentions, by consent, both the impugned orders are hereby quashed and set aside. Consequently the impugned order dated 27th June 2014 is also hereby quashed and set aside. Matter is remanded to DRT for *de-novo* consideration of Original Application No.242 of 2008.

4 The DRT may pass such fresh order as it deems fit on the said Original Application No.242 of 2008 in accordance with law.

5 Petitioner's undertaking to remain present and proceed with
the matter either in person or through duly authorized advocate before DRT
is accepted.

6 The DRT is requested to dispose the Original Application as
early as possible preferably within six months from the receipt of this order.

7 In view of what is stated in Para 3 above, the Registrar, DRAT,
Mumbai is directed to return the deposit made by Petitioner pursuant to
order dated 09th October 2017 together with accumulated interest within
four weeks of receiving the application from Petitioner.

8 Petition stands disposed. No order as to costs.

9 We clarify that we have not made any observations on the
merits of the matter.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)