

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

**WRIT PETITION NO.10896 OF 2022**

Mr. Vipin Aggarwal

... Petitioner

Vs.

Indian Overseas Bank & Ors.

... Respondents

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Mr. Prathamesh Kamat a/w Mr. Puneet Gogad, Mr. Kushal Sawant i/by Mr. Puneet Gogad for Petitioner.

Mr. Charles D'Souza a/w Ms. Prachi Kolambekar i/by Thodur Law Associates for Respondent No.1.

Mr. Sidharth Samantaray a/w Mr. Nishant Rana, Ms. Rupa Patel, Ms. Chinmayee Ghag i/by Zastriya for Respondent Nos. 4 to 6.

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

**DATED : 14<sup>th</sup> SEPTEMBER 2022**

**PC. :**

1. During the course of arguments today, Petitioner came up with an ingenious argument that when the Bank has settled the claim with the principal borrower, which would mean that the Bank has does not have to recover any money from the borrower, the DRAT should not have insisted on pre-deposit.

2. Mr. Kamat in fairness stated that this point was not raised before the DRAT and requests to quash and set aside the impugned order and remand the matter to DRAT for re-consideration.

3. Mr. D'Souza and Mr. Samantaray stated that if the Court is inclined to remand the matter to DRAT, the rights and contentions of their respective clients may be kept open to be agitated before the DRAT.

We are inclined to remand the matter.

4. Keeping open all rights and contentions of the parties to be raised before the DRAT, the impugned order dated 1<sup>st</sup> September 2022 hereby quashed and set aside. The DRAT shall hear the parties afresh and pass such order as it deems fit in accordance with law.

5. Should Petitioner wish to file further Affidavit to raise further grounds before the DRAT, Petitioner is at liberty to do so and the DRAT will pass order on that on merits after hearing the parties.

6. The DRAT is requested to dispose the application at the earliest since as Mr. Samantaray states his client has paid over Rs.31 Crores more than one and half years ago. The DRAT to make an endeavour to dispose the application within four weeks from today.

7. Learned Counsel agreed that on 20<sup>th</sup> September 2022 parties will jointly request for an adjournment before the DRT. Statement accepted.

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

9. Petition disposed. No order as to costs.

10. All to act on the authenticated copy of this order.

(A.S. DOCTOR, J.)

( K.R. SHRIRAM, J.)

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