IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10074 OF 2023

Raigad Militry School .. Petitioner

Versus

Bank of India .. Respondent

LAXMI SUBHASH SONTAKKE
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Date: 2023.10.03 11:34:50 +0530

Mr. Cyrus Ardeshir a/w Sonal Sanap i/b. M/s. Apex Law Parners *for the Petitioner.*

Mr. O. A. Das, *for Respondent.*

CORAM : B. P. COLABAWALLA &
M. M. SATHAYE, JJ.
DATE : SEPTEMBER 29, 2023

P. C.

1. The issue in the above Writ Petition is one of interpretation of the One Time Settlement (for short "**OTS**") scheme sanctioned by the Respondent-Bank in favour of the Petitioner. Under this OTS [sanctioned on 31st March, 2023], the Petitioner-borrower was to pay a total sum of Rs. 2.59 crores to the Respondent-Bank. 10% of this amount was to be paid on the date of sanction of the OTS and which has been duly done. A further sum of 15% of Rs. 2.59 crores was to be paid within 30 days from 31st March, 2023 [i.e. by 30th April, 2023]. The balance amount was to be paid within a period of 30 days or 90 days [as the case may be] from the date of the acceptance of the said OTS by the Petitioner-borrower. The OTS further provided that if the entire OTS amount was not paid within 90 from the date of acceptance, for repayment beyond 90 days, simple interest @ 10% p.a. would be charged on the reducing balance from the date of acceptance [i.e. 1st April, 2023] till the end date of the stipulated repayment period, as per the OTS scheme. It is not in dispute before us that the total period [the entire period] by which payment had to be made would be 180 days from the date of acceptance [i.e. on or before 30th September, 2023].

2. The issue raised before us is if the Petitioner defaulted in making payment of the 15% amount of Rs. 2.59 crores by 30th April, 2023, did the OTS automatically come to an end or whether the Petitioner can still contend that if full payment is made within 180 days from 31st March, 2023 [i.e. on or before 30th September, 2023] together with interest @10% p.a. from 1st April, 2023 to 30th September, 2023, then, the OTS would be binding on the Bank. Since this question would be moot if the Petitioner-borrower was unable to pay the balance amount of Rs. 2,33,10,000/- together with interest @ 10% p.a. from 1st April, 2023 to 30th September, 2023, we had adjourned this matter to

today to first see whether the Petitioner-borrower was in a position to make the aforesaid payment.

3. Today when the matter is called out, Mr. Ardeshir, the learned Counsel appearing for the Petitioner has tendered a Demand Draft of Rs. 2,44,75,500/- and which is towards the full payment under the OTS together with interest @ 10% p.a. from 1st April, 2023 to 30th September, 2023. The same is also handed over to the learned Counsel appearing for the Respondent-Bank and which is duly acknowledged.

4. Though the Bank initially disputed the interpretation put by the Petitioner-borrower on the terms of the OTS scheme, on instructions, Mr. Das, the learned Counsel appearing for the Respondent-Bank, has graciously accepted this amount of Rs. 2,44,75,500/- under the OTS scheme sanctioned on 31st March, 2023 as a full and final settlement. He however submitted that additional expenses have been incurred by the Respondent-Bank in relation to advertisement charges, valuation charges, legal expenses and security charges aggregating to a total amount of Rs. 3,19,847/-. He submitted that this also ought to be paid by the Petitioner borrower.

5. Mr. Ardeshir, the learned Counsel appearing for the Petitioner-borrower, on instructions of his client, who is present in Court, has fairly stated that this amount of Rs. 3,19,847/- shall also be paid by the Petitioner-borrower to the Respondent-Bank on or before 3rd October, 2023.

6. Considering the fair stand taken by both parties, the following order is passed:-

a) The Demand Draft of Rs. 2,44,75,500/- handed over to the Respondent-Bank in Court today shall be appropriated by it towards the outstanding dues of the Petitioner-borrower. In addition to the aforesaid amount, the Petitioner-borrower shall also pay to the Respondent-Bank a sum of Rs. 3,19,847/- on or before 3rd October, 2023.

b) Once these amounts are paid, the account of the Petitioner-borrower with the Respondent-Bank shall be closed and shall be marked as fully satisfied. Once this is done, the Respondent-Bank shall issue a 'No Dues Certificate' in favour of the Petitioner-borrower and also execute all necessary documents for releasing and/or cancelling the mortgage created in its favour by the Petitioner-borrower. This exercise shall be done by the

Respondent-Bank within a period of two weeks of receiving all the monies from the Petitioner-borrower as per this order.

c) Mr. Ardeshir, on instructions, has agreed that in the event there is a default in paying any of the aforesaid amounts, the OTS sanctioned on 31st March, 2023 in favour of the Petitioner-borrower shall stand canceled and the Respondent- Bank shall be free to execute the decree obtained by it in the DRT against the Petitioner-borrower. This, of course, is in addition to all other remedies that are available to the Bank that it is entitled to exercise in law.

7. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. Though we have disposed of the above Writ Petition, we place the above matter on board for reporting compliance on 4th October, 2023.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.] **[B. P. COLABAWALLA, J.]**

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