



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11282 OF 2023

Sangeeta Vishwas Dhakade and Anr. .. Petitioners

Versus

The Authorised Officer, Bank of Maharashtra .. Respondent

Mr.Sanjay Kasture, Advocates for the Petitioners.

Mrs.M.R. Patel, Advocates for Respondent/Bank.

CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.

DATE : SEPTEMBER 8, 2023

P. C.

1. The above writ petition is filed *inter alia* challenging the order dated 07.08.2023 passed by the DRAT, Mumbai in Appeal on Diary No. 1153 of 2023. By the impugned order, the appeal of the the Petitioners (original Appellants before the DRAT) was dismissed for non compliance of the condition of the pre-deposit imposed by the DRAT vide its order dated 14.07.2023.

2. The learned Counsel appearing on behalf of the Petitioners submitted that though several grounds have been set out in the petition, the Petitioners only seek the indulgence of this Court for an extension of time to comply with the order of the DRAT dated 14.07.2023 under which the Petitioners were directed to deposit a sum of Rs.25 lakhs as more particularly set out therein. In other words, it was the submission of the Petitioners that this is nothing but a mercy plea.

3. We have heard the learned counsel appearing on behalf of the Petitioners. We find that the demand notice [under Section 13(2) of the SARFAESI Act, 2002] is issued in the year 2017. As noted by the DRAT (in its order dated 14.07.2023) the amount outstanding is approximately Rs.58.15 lakhs. Taking this into consideration, the DRAT directed the Appellants to deposit a sum of Rs.25 lakhs in the manner more particularly set out in paragraph 4 of the said order. We find that adequate time was granted to the Petitioners to deposit this amount. This is evident from paragraph 4 of the order dated 14.07.2023, which reads thus:

“4. Considering the entire facts and circumstances, I direct the Appellants to deposit the sum of Rs.25 lakhs as pre-deposit. The learned counsel appearing for the Appellants submits that in the earlier

Appeal filed by them Misc. Appeal No.80/2018 which has already been disposed of, there is already a sum of Rs.4,19,000/- which is lying in deposit in this Tribunal. The Appellants is willing to deposit a total sum of Rs.5,00,000/- including that amount today, and therefore, the amount in deposit in the earlier Appeal shall be brought to in this Appeal and the balance shortfall to make the deposit of Rs.5,00,000/- shall be furnished by the Appellants. The balance amount of Rs.20 lakhs shall be paid in two equal installments of Rs.10 lakhs each. The 1st installment of Rs.10 lakhs shall be payable within three weeks, i.e. on or before 04.08.2023. The 2nd installment of Rs.10 lakhs shall be payable within two weeks therefrom, i.e. on or before 18.08.2023. Failure to pay the installments as directed shall entail in dismissal of the Appeal without any further reference to this Tribunal. On depositing a sum of Rs.5 lakhs today the sale of the property shall be deferred till the next date of hearing.”

4. Because this order was not complied with, the consequential order dated 07.08.2023 came to be passed. Even today, the Petitioners are not ready with the amount of Rs.20 lakh. If that was the case, we may have even considered, purely out of mercy, to extend the time to make a deposit. However, the request made today is that a further period of two months be granted to deposit the amount of Rs. 20 lakhs. We find this request is highly unreasonable and not warranted from the facts of the present case.

5. In these circumstances, we find no merit in the above writ petition. It is accordingly dismissed. However, there shall be no order as to costs.

6. 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.]