IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3083 OF 2022

Shri Arun S/o. Narendra Rudkar
Aged About 77 years,
Occupation: retired,
R/o. Paranjape Colony, Camp,
Amravati. .... **PETITIONER**

...V E R S U S...

State Bank of India
A Corporation constituted under the
State Bank of India Act, 1955, and having one
of Its branch offices known as Main Branch,
Shyam Chowk, Dist. Amravati (State of
Maharashtra) Acting through One of its
Principal Officer of the Branch i.e. the
Chief Manager of the Branch. .... **RESPONDENT**

Petitioner-in-person.
Mr. S. N. Kumar, Advocate for Respondent.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **29th MARCH, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. By consent of the parties petition is heard finally.

2. Challenge is to the order dated 13.09.2021 passed by

the Debts Recovery Appellate Tribunal (DRAT), Mumbai in Appeal 173/2011, which was preferred by the petitioner who appears in person challenging the order dated 23.08.2011 rendered by the Debts Recovery Tribuan (DRT), Nagpur in S.A. 58/2010.

3. It would not be necessary to refer to the controversy in detail since we are not called upon to touch the merits of the matter.

4. We may note that in appeal the petitioner-in-person and the State Bank of India (Bank) filed a compromise petition which came to be registered as Miscellaneous Application 941/2015.

5. It would be relevant to extract paragraphs 7 to 9 of the compromise petition:

> *7. It is submitted that in pursuance of settlement the appellant required to pay an amount of Rs.2,93,647/- out of which Rs.11,388/- (in words Eleven Thousand Three Hundred Eighty Eight) has been deposited by the appellant on 21/10/2015 vide cheque bearing no.548879 drawn on Khamgaon Urban Co-operative Bank and same has been encashed. It is further submitted that for the payment of*

remaining OTS amount appellant requested to the respondent bank to adjust the amount of Rs.2,25,000/-, which is deposited with the Registry of this Hon'ble Tribunal, alongwith its interest in the loan account of appellant. It is further submitted that for the adjustment of an amount of Rs.2,25,000/- + interest thereon appellant issued letter dated 21/10/2015 to the respondent bank and therein appellant requested to the respondent bank to issue letter in his name for get back an amount of Rs.2,25,000/- + interest in the loan account. It is respectfully submitted that respondent bank on even date issued communication to the appellant and informed to the appellant to call back the security deposit amount kept with the Hon'ble DRAT, Mumbai and after the receipt of the amount from DRAT respondent bank will adjust it towards the outstanding in account for issuing No Dues Certificate.

8. *It is submitted that respondent bank is ready to adjust the security deposit amount kept with DRAT Mumbai i.e. Rs.2,25,000/- + interest.*

9. *In view of the above facts and circumstances, the appellant and respondent bank have arrived at full and final settlement of the dispute on following terms and conditions:*

   A. *The respondent bank has agreed to accept an amount of Rs.2,93,647/- in full and final settlement of the entire claim against appellant in the loan account.*

   B. *The appellant deposited an amount of Rs.11,388/- on 21/10/2015 with the respondent bank and ready to deposit remaining OTS amount from the security deposit kept with DRAT,* *Mumbai i.e. Rs.2,25,000/- + interest accrued thereon which is up to 08/10/2015 is Rs.55,229/- and for the same respondent bank has no objection.*

C. The respondent bank has agreed to accept the OTS amount from the appellant and agreed to give No Dues Certificate and release the Secured Asset. The respondent bank further agreed that from 08/10/2015 till issuance of No Dues Certificate respondent bank refund the accrued interest on amount of Rs.2,25,000/- to the appellant.

D. The appellant and respondent bank shall not raise any dispute, claim, damages or recovery, cost, whatsoever against each other in respect of the subject matter of the present proceeding.

6. It is irrefutable that the dispute stood amicably settled. The Bank agreed to accept amount of Rs.2,93,647/- (Rupees Two Lakhs Ninety Three Thousand Six Hundred Forty Seven) as full and final settlement of the entire claim against the petitioner. The parties agreed that the amount of Rs.2,25,000/- (Rupees Two Lakhs Twenty Five Thousand) deposited by the petitioner with DRAT and interest which accrued thereon up to 08.10.2015 which works out to Rs.55,229/- (Rupees Fifty Five Thousand Two Hundred Twenty Nine) shall be paid to the Bank

and the petitioner shall additionally pay amount of Rs.11,388/- (Rupees Eleven Thousand Three Hundred Eighty Eight) towards the full and final settlement.

7. It is not in dispute that the petitioner did pay amount of Rs.11,388/- on 21.10.2015, which the Bank accepted.

8. We have no doubt in our mind that the compromise or amicable settlement was given effect to, bilaterally, and the application which is not considered was preferred presumably since towards the payment of the settlement amount, the security amount which the petitioner has deposited was required to be withdrawn by the Bank along with interest as on 08.10.2015.

9. The petitioner is required to approach us in writ jurisdiction, since while disposing of the appeal the Appellate Tribunal held that there is no provision to record compromise.

10. We are not inclined to delve deeper in the observation of the learned Judge of the Appellate Tribunal which is to the effect that in appeal compromise between the parties cannot be recorded, although *prima facie* the observation appears to be

vulnerable.

11. Be that as it may, since we have found that as a fact the petitioner-in-person and the State Bank of India did arrive at compromise, that the petitioner-in-person was required to pay an amount of Rs.11,388/- in addition to the security deposit amount of Rs.2,25,000/- lying with the DRAT along with the interest thereon up to 08.10.2015 which works out to Rs.55,229/-, and most importantly, the petitioner discharged his part of the compromise petition, paid the amount of Rs.11,388/- which the Bank accepted, there is no impediment in allowing the petition to a certain extent.

12. We, therefore, quash the order impugned to the extent the compromise petition bilaterally filed is not recognized.

13. We hold and declared that the compromise arrived at between the petitioner-in-person and the Bank was given effect to and binds the parties.

14. We direct the Registry of the DRAT to forthwith permit the Bank to withdraw the amount of Rs.2,25,000/- along

with interest of Rs.55,229/-. The balance amount i.e. the interest which has accrued of Rs.2,25,000/- after 08.10.2015 shall be paid to the petitioner. Needless to observe, the Bank shall return the security documents and issue ‘No Dues Certificate’ in favour of the petitioner as soon as the formalities of withdrawal of the amount from the DRAT are complete.

15. The needful shall be done by the Registry of the DRAT within seven days from the date an appropriate application is made by the petitioner-in-person and/or the Bank.

16. The petition is disposed of in the aforestated terms.

(MRS. VRUSHALI V. JOSHI, J.) **(ROHIT B. DEO, J.)**

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