

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15545 OF 2023
WITH
INTERIM APPLICATION NO. 7847 OF 2024
IN
WRIT PETITION NO. 15545 OF 2023

M/s. Tuffware Industries & Ors ...Petitioners

Versus

Union Bank of India & Ors ...Respondents

Mr. Venkatesh Dhond, Senior Advocate, a/w Aniruth Puroshothaman, Charles D'souza, Sachit Bhogle, Vinodhini Shriniwasan & Vineet Jain, i/b Parth Shah, Advocates for the Petitioners.

Mr. Aayush Kothari, a/w Uma Fadia & Priyanka Fadia, i/b S.N. Fadia, Advocates for Respondent No.1.

Mr. Bhavin Gada, a/w Pratibha Mehta, Advocates for Respondent No.2.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : MAY 06, 2024

PC :

1. The above Writ Petition is filed seeking to quash and set aside impugned order dated 13th November, 2023, passed by the Debts Recovery Appellate Tribunal, Mumbai ("DRAT") in Interim Application No.715 of 2023 in Appeal on Diary No.1872 of 2023. This Interim

Application was seeking of waiver of deposit under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. There were long drawn out arguments on what would be the amount due and payable. According to the Bank and which has been of accepted by the DRAT is that an amount of approximately Rs.57 Crores is due and payable, and hence the DRAT directed the Petitioner herein to deposit a sum of Rs.20 Crores in installments as more particularly set out in the impugned order. It is not in dispute that this amount of Rs.20 Crores has not been deposited, and consequently, the Appeal filed by the Petitioner has also been dismissed by order dated 5th December, 2023.

2. According to the Petitioner, the amount due and payable at the highest would be 16.97 Cores because in the sale notice, this was the figure mentioned as due and payable as on 30th June, 2022. After we heard the parties for some time, we find that atleast to the extent of Rs.24.42 Crores is the amount due and payable that was mentioned by the Petitioner in the first Miscellaneous Appeal filed challenging the order dated 26th October, 2022, passed by Debts Recovery Tribunal-III under which it rejected the stay to the sale of the secured asset. Since there is a dispute with reference to the what would be the amount due

and payable, we hold the Petitioner to this amount of Rs.24.42 Crores and direct that the Petitioner shall deposit an amount of Rs.8.17 Crores before the DRAT. It is not in dispute that a sum of Rs.1.5 Crores is already deposited with the DRAT and the same is still lying therein.

3. In these circumstances, the Petitioner shall deposit the additional amount of Rs.6.67 Crores with the DRAT within a period of four weeks from today. Out of this amount, a sum of Rs.2 Crores shall be deposited on or before 20th May, 2024 and the balance amount of Rs.4.67 Crores shall be deposited on or before 3rd June, 2024. If the aforesaid deposits are made without seeking any extension of time, the order dismissing the Appeal dated 5th December, 2023, shall stand set aside and the Appeal shall be restored to the file of the DRAT for a decision on merits. In the event any default is committed in making the aforesaid deposits, the above Writ Petition shall stand dismissed and the order dated 5th December, 2023, [dismissing the Petitioner's Appeal] shall stand confirmed.

4. It is needless to clarify that we have not opined on the merits of the matter, and especially with reference to the amount due and payable by the Petitioner to the Respondent-Bank. Both parties are free

to agitate this issue before the DRAT, if the Appeal is to be entertained on the merits.

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

6. Both the parties have stated before the Court that they are anxious that the Appeal before the DRAT be disposed of expeditiously, subject of course, to the Petitioner depositing the amounts set out herein.

7. Considering this consensus, we would request the DRAT to dispose of the Appeal as expeditiously as possible, again of course, subject to the Petitioner depositing the amount mentioned in the present order.

8. In view of the disposal of the Writ Petition, nothing survives in the above Interim Application and the same is disposed of accordingly.

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.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]