

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

WRIT PETITION NO.987 OF 2023

Dilip Lalji Patil

..vs..

Union of India, thr.its Secretary and ors.

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.K. Thakkar, Advocate for the petitioner

Shri M.N. Phadke, Advocate for the respondent nos. 2 and 3.

CORAM: VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATED : 09/07/2024.

Heard.

2. The petitioner is a Guarantor against whom the Bank has filed an application bearing Original Application No.53 of 2004 along with a Borrower before the Debt Recovery Tribunal ('DRT'), Nagpur. The petitioner claims that the original lease-deed was tendered by him in the DRT to show that it was not mortgaged at the time of sanction of loan.

3. According to the petitioner, he has produced the original lease-deed in the DRT to substantiate his stand. The petitioner would submit that the said application was disposed of and then, he has applied to the DRT for return of the lease-deed but it was not returned by impugned communication dated 21.01.2023. The concerned Authority of DRT has assigned a reason for rejection that Misc. Appeal Nos.123 and 124 of 2007 are pending before the Debts Recovery Appellate Tribunal ('DRAT'), Mumbai and thus, without an order of DRAT, they cannot return the documents.

4. It is brought to the notice that lease-deed has been referred as sale-deed but admittedly, original lease-deed was claimed to be submitted with the DRT.

5. Learned Counsel appearing for the respondent would submit that the petitioner has applied for return of documents by claiming it to be a sale-deed that is why it was not entertained. While rejecting the application, the Authority stated that apart from the pendency of these two appeals, in terms of Section 25(3) of the Debts Recovery Tribunal Regulations, 2015, the documents cannot be returned until expiry of the period provided for preferring an appeal, or, until the disposal of an appeal. Admittedly, though as per the petitioner's contention Appeal Nos. 123 and 124 of 2007 have been disposed of however there is no dispute that the order passed in main proceedings i.e. in Original Application No.53 of 2004 dated 28.11.2017 has been challenged by none other than the petitioner itself, which is pending.

6. In the circumstances, it is within the domain of the DRAT to take a call regarding return of documents. In view of that the petition stands disposed of. Certainly, the petitioner can approach to the DRAT in pending appeals, which shall be decided in accordance with the Rules and Regulations.

(SMT. M.S. JAWALKAR, J.)

(VINAY JOSHI, J.)