**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

89 WRIT PETITION NO. 612 OF 2024

BAPURAO SHANKAR RATHOD AND ANOTHER
....Petitioners

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL ITS SECRETARY AND OTHERS
.....Respondents

.....

Mr. N. P. Patil -Jamalpurkar, Advocate for the Petitioners
Mr. S. K. Tambe, AGP for the Respondents-State
Mr. S. B. Chaudhari, Advocate for Respondent No. 4 Bank

CORAM	:	RAVINDRA V. GHUGE & Y. G. KHOBRAGADE, JJ.
DATE	:	15th January, 2024

ORDER:

1. We have considered the submissions of the learned Advocates for the respective sides.

2. There is no dispute that an amount of Rs.17,81,953/- is recoverable from the Petitioners as on 10.01.2024. The learned Advocate for the Petitioners submits on instructions that the Petitioners acknowledge these dues and are willing to make the payment. It is suggested that Rs. Five Lakhs would be paid within a short period. Further Five Lakhs would be paid within four weeks and thereafter the remainder amount of Rs. Eight lakhs would be paid in two installments of six weeks each.

3. The learned Advocate appearing for the Respondent Bank submits that the Bank is interested in recovering the dues and if the

Petitioners' suggestion is honest, the Bank is willing to accept the said proposal.

4. In view of the above, **this Petition is disposed off** with following directions:

O R D E R

(A) The first installment of Rs. 5,00,000/- shall be deposited with the Bank on or before 31st January, 2024. Further installment Rs. 5,00,000/- shall be deposited with the Bank on or before 29th February, 2024.

(B) The third installment of Rs.4 lakhs shall be deposited on or before 15th April, 2024 and remaining installment of Rs.4,00,000/- shall be deposited on or before 31st May, 2024.

(C) All these installments shall be paid by Demand Drafts to the Bank. If even one installment is defaulted, the Bank would proceed to take physical possession of the mortgaged property, since, earlier a cheque was given by the Petitioners to the Bank for Rs. 5,00,000/- and the cheque got dishonoured.

(D) In the meanwhile, the Bank should initiate steps to bring the Legal Heirs of the borrowers on record, notwithstanding that the Petitioners, who are guarantors, are equally liable.

(E) In view of the above directions, physical possession of the mortgaged property, that was to be taken on 17.01.2024, shall be deferred till 31.01.2034 and shall consequently be deferred to the dates on which each of the installments are to be paid.

(F) The learned Advocate for the Petitioners makes a statement on instructions that the Petitioners would not create any third party interest or encumbrances on the mortgaged property.

(Y. G. KHOBRAGADE, J.) **(RAVINDRA V. GHUGE, J.)**

JPChavan