IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12412 OF 2025

Anjali Arvind Mehendale & Anr. … Petitioners

Versus

The Authorised Officer, IDBI Bank Ltd. And Anr. … Respondents

………….

Mr. Louis S. Shah i/b Rushabh D. Phade for the Petitioners.

Mr. Subhashchandra Pawar a/w Shobita Jadhav, Suryajeet Ravrane, Supriya Pawar, Ashish More for the respondent Nos. 1 and 2 – IDBI bank

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Coram : **M. S. Karnik &**
Ajit B. Kadethankar, JJ.

Date : **November 20, 2025.**

P. C. :

1. Heard learned counsel.

2. The present petition seeks to challenge the Notice under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “SERFAESI Act) issued by the respondent - bank and Notice dated 21st August 2019 under section 13(4) of the SARFAESI Act issued by respondent – bank.

3. Mr. Shah, learned counsel for the petitioner submitted that for a loan of Rs. 2 crores which was sanctioned by the respondent no.1 bank in the year 2016, already an amount of Rs. 1.30 crores has been paid by the petitioner. Learned counsel submitted that this entire amount of Rs. 1.30 crores has been appropriated towards interest, as a result of which, now the respondent bank is contending that total dues are Rs.3,84,00,000/-, which is unfair. It is further submitted by Mr. Shah that in respect of OTS proposal which was earlier granted on 31st October 2022, the petitioner had all intention to honour the OTS proposal. In fact, the first installment due and payable was also paid. However, in the meantime, the petitioner No.2 met with an accident and was in Coma for 2 months. He submits that the petitioner no.1 is a lady who is 80 years of age. It is submitted that the petitioners want to settle the matter with the respondent – bank and have every possible intention of paying the dues of the bank. However, they need some time.

4. Mr. Pawar, learned counsel for the respondent – bank invited our attention to the order passed by the Debt Recovery Tribunal, Pune, (DRT) which is at page 105 of the paper book. Vide order dated 9th October 2025, the DRT observed thus :-

"1. By the present application, the applicant has claimed relief to restrain the defendant from taking physical possession of the suit property on 10th October, 2025 in accordance with the notice of Tahsildar dated 24th September, 2025.

2. The learned Advocate appearing for defendant bank by oral arguments resisted the application.

3. Heard both the parties.

4. The learned Advocate for the applicant submitted that order passed in earlier Interlocutory Application has been complied with. Thereafter, the applicant had made OTS proposals frequently but were rejected. After receipt of Demand Notice the applicant has deposited Rs.75.21 lakhs.

He further submitted that the applicant met with an accident and was in Coma for two months and admitted in hospital for a year. Therefore, he could not repay the loan. The applicant is ready for settlement within short period and ready to deposit 10% of Demand Notice amount before possession. Therefore, relief as claimed may be granted.

5. The learned Advocate appearing for defendant bank submitted that first OTS was granted but it has been frustrated on the part of the applicant. Today dues are more than Rs.4 Crore. If applicant is directed to deposit 50% of Demand Notice amount, the possession will be deferred. Otherwise, application may be rejected.

6. In view of submission of both the parties and since applicant is ready for settlement, I pass the following order:

ORDER

A. Stay for taking possession of the suit property scheduled on 10th October, 2025 is granted subject to applicant deposit 10% of Demand Notice amount by 12.30 Noon on 10th October, 2025 and more 10% amount within six (06) weeks from today. In default of payment of either of the amounts, the defendant bank is entitled to take possession of the suit property.

B. The applicant may settle the loan account at the earliest.

C. This application is disposed of.

Pronounced in Open Court"

5. It is submitted by the learned counsel for the respondent – bank that the petitioner has a remedy of approaching Debt Recovery Appellate Tribunal (DRAT) if so aggrieved by the order dated 9th October 2025, but the petition as filed is only with the intention to defeat the order dated 9th October 2025 passed by the DRT.

6. We have all sympathies for petitioner no.2 who met with an accident and was in Coma for 2 months. We also appreciate the fact that the petitioner No.1 is a 80 years old lady. However, the petitioners are having remedy before the DRAT, which is the appropriate remedy, it is for the petitioners to challenge the order passed by the DRT before the DRAT. The petitioners are at liberty to challenge the order dated 9th October 2025.

7. Learned counsel for the petitioner submitted that by 31st March 2025 petitioners undertake to deposit a sum of Rs.50,00,000/-. However, these are the issues for the DRAT to consider, if an appeal is filed. Learned counsel for the petitioners requested that since time to deposit is granted by the DRAT is expiring tomorrow, some indulgence be shown by this Court to enable the petitioner to approach the DRAT.

8. In the facts and circumstances of the case and particularly considering the health condition of the petitioners as indicated hereinabove and further as the learned counsel for the petitioners, on instructions, stated that the petitioners are willing to deposit a sum of Rs.50,00,000/- by 31st March 2026, we request the respondent – bank not to disturb the possession of the petitioners for a period of 4 weeks from today. Liberty to approach the DRAT is kept open. All contentions are kept open. We may not be understood to have expressed any opinion on the merits of the contentions.

9. The Writ Petition is disposed of.

[Ajit B. Kadethankar, J.] **[M. S. Karnik]**