

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7864 OF 2024

Kotak Mahindra Bank Limited	...Petitioner
Versus	
State of Maharashtra & Ors.	...Respondents

Mr. Rahul Karnik for the Petitioner.

Ms. S. D. Vyas, Addl. GP a/w Mr. Aditya Deolekar, AGP for the State.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 08 September 2025

P.C.:-

1. Heard Mr. Karnik, learned counsel for the Petitioner and Mr. Deolekar, learned AGP for the Sate.
2. This Petition seeks raising of impugned attachment effected by order dated 17 April 2023.
3. After the institution of this Petition, the attachment is already lifted pursuant to the Petitioner, under protest paying the amount demanded by the fourth Respondent.
4. Therefore, the relief in this Petition, stands worked out at

least substantially. However, Mr. Karnik points out that this amount was paid under protest because it is the Petitioner's case that this amount could have been recovered by the fourth Respondent from Respondent Nos.5 to 9 (borrowers) and not the Petitioner-Bank.

5. He, therefore, submits that the leave may be granted to amend this Petition and seek recovery of the amount paid under the protest.

6. Considering the nature of prayers made in this Petition, we do not think that it would be appropriate to grant leave to amend this Petition and to change its fundamental nature. Instead, the interest of justice would be met if, by keeping all contentions of all parties open, we grant the Petitioner liberty to apply to the fourth Respondent for refund. Besides, it will be always be open to the Petitioner to also consider whether recovery is possible from Respondent Nos.5 to 9, because it is the Petitioner's case that it is these Respondents (borrowers), who were responsible for payment of this amount, in case, in law such amount was indeed payable.

7. Accordingly, we dispose of this Petition with liberty in the above terms. If any representation is made by the Petitioner to the fourth Respondent, the fourth Respondent must dispose of such representation within a period of three months of its receipt, after hearing the Petition

and communicating a reasoned decision in accordance with law and on its own merits. If the Petitioner is aggrieved by such decision, the Petitioner shall have liberty to work out appropriate remedies as available in law. Once again, we clarify that all contentions of all parties in this regard are expressly kept open.

8. The Petition is disposed of in the above terms. No costs.

(Advait M. Sethna, J)

(M.S. Sonak, J.)