

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

WRIT PETITION NO.5265 OF 2025

1. Dande Jewelers Pvt. Ltd.
2. Milind Madhusudan Dande
3. Late Madhusudan Jaiprakash Dande
Since deceased, through his legal heirs
3A. Milind Madhusudan Dande
4. Smt. Ujjawala Gangadhar Joshi ...Petitioners

Versus

1. Circle Officer, Deolali at Tal. Deolali, Dist. Nashik
2. District Magistrate, Nashik, Dist. Nashik
3. Tahsildar, Nashik at Nashik
4. Authorized Officer, IDFC First Bank Ltd.
5. The Nashik Road Deolali Vyapari Sahakari
Bank Ltd. Nashik Road,
Through its Chief Executive Officer,
6. The State of Maharashtra ... Respondents

Mr. Surel Shah, Senior Advocate a/w. Mr. B. A. Walimbe i/b. Mr. Anant Vadgaonkar, Advocates for the Petitioners.

Mr. N. K. Rajpurohit, Assistant Government Pleader for Respondent Nos. 1 to 3 & 6 - State

Mr. Charles D'souza a/w. Mr. Mr. Nikhil Rajani, Mr. Dhruvam Gaikwad, Advocates, i/b. M/s. V. Deshpande & Co. for Respondent No.4.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 28th APRIL 2025

ORAL JUDGMENT (Per A. S. CHANDURKAR, J):

1. Rule. Rule made returnable forthwith and heard finally with consent of the parties.

2. The challenge raised in this Writ Petition is to the order dated 21/03/2025 passed by the learned in-charge Presiding Officer, Debts Recovery Tribunal (DRT) – III. By the said order, the Petitioner was directed as under:

“Applicant represents that he is prepared to deposit an amount that is reasonably viable as the Tribunal directs.

Considering the contentions, today’s possession by Respondent Bank shall stand deferred on the applicant depositing Rs.40Lakhs with the Respondent by 4pm today. The Applicant shall deposit Rs.1crore each on 30.04.2025 and 30.05.2025, respectively. The actual further amount to be paid, if any shall be decided after detailed hearing. If the amount is not deposited as directed, the Respondent would be at liberty to proceed in the matter. I.A. No. 902 of 2025 for Stay stands disposed of.

List this matter on 30.04.2025.”

3. On 24/04/2025 after hearing the learned Counsel for the parties, the following order was passed in this Writ Petition:

1. The petitioners are aggrieved by the order dated 21st March 2025 passed by the learned I/c. Presiding Officer, Debts Recovery Tribunal-III by which the petitioners were directed to deposit an amount of Rs.40,00,000/- by 4:00 p.m. on the date of the order. It is submitted by the learned Senior Advocate for the petitioners that the condition that was imposed could not be complied with as the order was passed at about 2:30 p.m. and the same was uploaded at 3:30 p.m. By the time the amount could be deposited, the Bank had closed.

2. Prima-facie, the direction in question does appear to be impractical to comply with and in our view, some short time to test the bonafides of the petitioners in the light of the statement made before the Debts Recovery Tribunal that the petitioners were prepared to deposit an amount that was reasonably viable can be granted. To test the bonafides of the petitioners, the time to comply with the aforesaid direction is extended till 25th April

2025.

3. List on 28th April 2025 after urgent matters.

4. The objection raised by the respondent no.5 as regards availability of alternate remedy is kept open.

5. Parties to act on authenticated copy of this order.”

4. Today it is informed by learned Senior Advocate for the Petitioners that an amount of Rs.40,00,000/- came to be deposited on 25/04/2025. The statement is accepted. By virtue of this deposit, it is clear that part of the order that was directed to be complied by the Petitioners on 21/03/2025 by 4.00 p.m. stands complied. It is however seen that on account of failure to comply with the said direction by 4.00 PM on that day, the possession of the secured asset was taken on 21/03/2025 itself. The Panchanama records that steps for taking possession commenced at 12.30 PM and continued till 4.45 PM on said day.

5. It was urged on behalf of the Petitioners that since the amount in question was to be deposited by 4.00 pm, the steps for taking possession could not have commenced from 12.30 pm. According to the Bank since the date for taking possession was fixed on 21/03/2025, such steps were initiated at 12.30 PM.

6. Be that as it may, it is not necessary for us to go into all these aspects. In our view, since the Securitization Application preferred by the Petitioners is pending before the Debts Recovery Tribunal, all grievances in this regard can be raised in the said proceedings. It would be open for the Petitioners to seek restoration of possession of the secured asset, which it lost on 21/03/2025. We may only observe that after noting the impracticability of the complying with the directions to deposit the amount of Rs.40,00,000/-

by 4.00 PM on the date when the order was passed at about 2.30 PM and uploaded by 3.30 PM, an opportunity was granted to the Petitioners. The said direction now stands complied with, under orders of this Court.

7. An apprehension is expressed by the learned Senior Advocate for the Petitioners that such restoration of possession may not be permissible under the provisions of Section 17(3) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. We keep this contention open for being raised and considered by the Debts Recovery Tribunal.

8. Suffice it to observe that, the condition imposed of depositing an amount of Rs.40,00,000/- by the impugned order now stands completed pursuant to the interim order dated 24/04/2025 of this Court.

9. Hence, with liberty to the Petitioners to seek restoration of the possession in the pending proceedings and by keeping all points on merits open, the Writ Petition is disposed of with the aforesaid observations.

10. If an application for restoration of possession is moved with its simultaneous service upon the Respondent Bank, the Respondent Bank shall file reply thereto within a period of one week and the same shall be considered and decided on its own merits and in accordance with law, within a period of four weeks from moving such application.

11. Rule is disposed of in above terms. No costs.

12. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)