IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5462 OF 2025

Sachin Dinkar Patil and Anr. ...Petitioners
Versus
The State of Maharashtra and Anr. ...Respondents

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Mr. Kishor A. Shinde, Advocate for the Petitioners.
Mrs. Ashwini A. Purav, Assistant Government Pleader for the Respondent No.1.
Mr. R. J. Singh a/w Mrs. Ira R. Singh, Advocates i/b. R.J. Singh & Co. for the Respondent No.2/Indian Bank.

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

DATE : 29TH APRIL 2025

P.C. :

1. Heard the learned for the parties.

2. The Petitioners who are borrowers/guarantors are challenging the order dated 09.04.2025 passed in Interim Application No.212 of 2025 in Misc. Appeal (Diary) No.482 of 2025. By the said order, the Petitioners are directed to make deposit under Section 18(1) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the said Act"). The Petitioners are also seeking directions to the Debts Recovery Appellate Tribunal, Mumbai (for short 'the Appellate Tribunal') to consider their deposit waiver application in a particular manner, by considering a particular amount as basis and by applying 25% reduction.

3. The learned counsel for the Petitioners submitted that the impugned order is erroneously passed considering the sale value of the secured asset sold in the auction conducted under provisions of the said Act, as basis. He submitted that the amount mentioned in the notice

under Section 13(2) of the said Act ought to be considered as basis which is mentioned in the order under Section 14 of the said Act passed by the Magistrate. He submitted that the Appellate Tribunal ought to have taken Rs.22,27,681/- as basis and thereafter should have applied 25% reduction considering the Petitioners' difficulties. He has relied upon the judgment of **M/s. Sidha Neelkanth Paper Industries Private Limited & Anr. Vs. Prudent ARC Limited & Ors. [(2023) SCC Online SC 12]** in support of his case.

4. On the other hand, the learned counsel for the Respondent No.2-Bank has supported the impugned order. He submitted that the Appellate Tribunal has shown sufficient indulgence by reducing the amount to 40% of the sale value rightly taken as basis. He submitted that the sale has already taken place in the present case and possession of the secured asset has also been taken and given to the auction purchaser.

5. We have considered the submissions and perused the record.

6. In **M/s. Sidha Neelkanth** (supra), the Hon'ble Supreme Court was considering whether the term 'debt due' includes liability plus interest and whether the sale proceeds received by the Bank/secured creditor can be adjusted while arriving at the amount of pre-deposit under Section 18 of the said Act. The Hon'ble Supreme Court in paragraph Nos.15 & 16 has held that it will not be open for the borrower who challenges the auction sale, to pray for adjustment of the sale proceeds for the purpose of arriving at pre-deposit amount and that debt means liability inclusive of interest as claimed by the Bank.

7. On a specific query by the Court, the learned counsel for the

Petitioners submitted that the auction sale which has taken place in the present case, has been challenged by the Petitioners in separate proceeding. In that view of the matter, the sale proceeds amount of Rs.51,68,000/- cannot be deducted or adjusted. The term debt includes interest. The sale proceeds or amount deposited by the auction purchaser can not be automatically adjusted or considered as fully recovered. We note that the notice under Section 13(2) of the said Act which is relied upon by the Petitioners is dated 29.07.2021. Therefore, as on the date of the impugned order, the amount of accrued interest can not be ignored.

8. In that view of the matter, no fault can be found with the Appellate Tribunal considering the sale value as basis. The Appellate Tribunal has already reduced the pre-deposit to the extent of 40% of sale value and has also given 2 installments to the Petitioners.

9. In view of the aforesaid facts and circumstances as well as reasons indicated above, we are not inclined to interfere in exercise of writ jurisdiction. Writ Petition is accordingly dismissed with no order as to costs.

10. However, the time to deposit the amount as directed by the impugned order, stands extended by period of 15 days for the first installment and 13 days from the second installment from the dates mentioned in the impugned order.

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

(M.M. SATHAYE, J.) **(A.S. CHANDURKAR, J.)**