IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6078 OF 2025

1. K.D. Textiles, Bhiwandi, Thane]
2. K.M. Textiles, Bhiwandi, Thane]
3. R.G. Kondi, Bhiwandi, Thane]
4. M.S. Textiles, Bhiwandi, Thane] **.. Petitioners**

Versus

1. State of Maharashtra]
2. Abhyudaya Co-op. Bank Ltd.]
3. Union of India, through Ministry of Finance] **.. Respondents**

Mr. Mandar Soman with Mr. Sanjay Anabhawane, Advocates for the Petitioners.

Mr. S.H. Kankal, Assistant Government Pleader for Respondent No.1.

Mr. Madhur Rai with Mr. Durgesh Telang, Advocates, i/by PRS Legal, for Respondent No.2.

Mr. Mohamedali M. Chunawala, i/by A.A. Ansari, Advocates for Respondent No.3.

CORAM : A.S. CHANDURKAR &
DR. NEELA GOKHALE, JJ

DATE : 7TH MAY 2025.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2. The petitioners are aggrieved by the order dated 3rd April 2025 passed by the learned I/c. Presiding Officer, Debts Recovery Tribunal-III by which Interim Application No.1084 of 2025 came to be disposed of.

3. At the outset, it may be stated that the learned counsel for the 2nd respondent raised an objection to the maintainability of the writ petition on the ground that an alternate remedy of approaching the Debts Recovery Appellate Tribunal was available for challenging the impugned order.

4. The learned counsel for the petitioners however submitted that as the learned I/c. Presiding Officer has passed an unreasoned order, especially in the backdrop of earlier orders passed in the same proceedings, an exceptional case for interference has been made out.

5. In this backdrop we have heard the learned counsel for the parties. It is seen that in Securitisation Application No.291 of 2023 filed by the petitioners, order dated 9th August 2023 was passed directing the petitioners to deposit an amount of Rs.10,00,000/- within the time stipulated. This amount has accordingly been deposited. Thereafter on 22nd November 2023, another order was passed requiring the 2nd respondent to file its reply on merits to enable the arguments to be heard. It was further directed that no coercive action be taken against the petitioners. In the meanwhile on 21st January 2025, another notice proposing to take possession of the secured asset was issued by the 2nd respondent. This notice is stated to be served on the petitioners on 27th

March 2025. In this backdrop, the petitioners moved Interim Application No.1084 of 2025 seeking interim relief. After hearing the parties, the learned I/c. Presiding Officer passed the following order :-

> “Heard both sides.
> The possession intended today shall stand deferred on the applicant depositing Rs.15 lakhs with the respondent-Bank before 04:00 p.m. today, failing which the respondent-Bank would be at liberty to take further steps as per SARFAESI Act. I.A. No.1084 of 2025 stands disposed off.
> List this matter on 30.06.2025 for filing reply to S.A.”

6. From the aforesaid, it becomes clear that despite an earlier order of interim protection, the request for grant of interim relief made by the petitioners has been disposed of by passing an unreasoned order. Further, the direction to deposit an amount of Rs.15,00,000/- before 4:00 p.m on the date of the order itself is an impracticable direction for being complied with, given the grievance usually made as regards the time for uploading of the order and its immediate compliance. In these facts, we are of the view that an exceptional case has been made out to exercise discretion.

7. On the short ground that the impugned order is unreasoned and causes prejudice to the petitioners, we are inclined to set aside the same and restore the Interim Application for its consideration by the Tribunal on merits.

8. It is informed that the next date of the proceedings before the Debts Recovery Tribunal is 30th June 2025. The learned counsel for the 2nd respondent submits that affidavit-in-reply would be filed by 31st May 2025. The statement is accepted.

9. In view of the above, the following order is passed :-

(i) The order dated 3rd April 2025 passed by the learned I/c. Presiding Officer in Interim Application No.1084 of 2025 in Securitisation Application No.291 of 2023 is set aside.

(ii) Interim Application No.1084 of 2025 is restored for being heard and decided afresh on merits and in accordance with law.

(iii) It is made clear that all contentions of the parties are kept open for being raised before the Debts Recovery Tribunal.

(iv) Affidavit-in-reply on behalf of the 2nd respondent be filed by 31st May 2025. Rejoinder, if any, be filed by the petitioners by 16th June 2025. The Tribunal is requested to decide the Interim Application expeditiously and preferably on 30th June 2025.

(iv) Till the Interim Application is decided, the notice dated 21st January 2025 shall not be executed.

10. Rule is made absolute in the above terms with no order as to costs.

[DR. NEELA GOKHALE, J.] **[A.S. CHANDURKAR, J.]**