IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11614 OF 2025

State Bank of India	…	Petitioner
V/s.		
State of Maharashtra through PP and Ors.	…	Respondents

Ms. Pushpa Ganediwala (through VC) with Sheetal Prakash, Ravi Goenka, Saloni Makhan, Anshu Agrawal, Ankit Rathod and Pradymna Agrawal i/by Goenka Law Associates, for the petitioner.

Mr. Satyavan N. Vaishnav with Nupur Mukherjee, Arman Grewal i/by M/s. Vaishnawa and Co. for the respondent nos. 2,3,6,7 and 8

Ms. D.S. Deshmukh, AGP, for the Respondent No.1/State.

CORAM : N.J. JAMADAR, J.

DATE : 4th SEPTEMBER 2025

PC:

1. Heard the learned counsel for the parties.

2. The challenge in this petition is to an order dated 14th October 2024, passed by the learned Judge, Court of Small Causes on an application (Exhibit-151), whereby the defence of the petitioner was struck off for disobedience of the order dated 27th March 2024, passed by the learned Judge to deposit a sum of Rs. 58,97,116/- towards the outstanding property tax in respect of the demised premises.

3. The said order dated 27 March 2024 was purportedly passed by

invoking the provisions contained in Order XV-A of the Code of Civil Procedure (Bombay High Court Amendment), 1908.

4. The petition was urgently circulated, as TE&R Suit No. 41/56 of 2005 is posted for judgment today.

5. Learned counsel for the parties inform the Court that the learned Judge is on leave, and, therefore, the suit has now been adjourned to 12th September 2025.

6. Ms. Ganediwala, the learned counsel for the petitioner, on instructions, submits that the petitioner is willing to pay the amount of Rs. 58,97,116/- towards the property tax and the petitioner be given an opportunity to effectively defend the suit. A submission was also canvassed that the provisions contained in Order XV-A of the Code do not apply to arrears of the municipal taxes.

7. Mr Vaishnav, the learned counsel for the respondents – plaintiffs submitted that the petitioner did not deposit the amount despite seeking time to do so. The Petitioner has strategically allowed the trial to proceed to the stage of judgment, and has moved this Court at the very last minute. The conduct of the Petitioner is such that it does not deserve any indulgence.

8. As a submission is made on behalf of the petitioner that, the petitioner is willing to pay the amount of Rs.58,97,116/-, to test the bona fide of the Petitioner, the Petitioner can be directed to pay the amount of Rs.58,97,116/- to the Respondent No.2, who, according to Mr. Vaishnav, has paid the municipal taxes, by Monday, the 8th September 2025.

9. In the event the petitioner pays the said amount to the respondent no. 2, the petitioner shall be entitled to make an application before the learned Judge, Court of Small Causes for recall of the order dated 14th October 2024.

10. It is hereby made clear that the payment of the aforesaid amount by the petitioner to the respondent no. 2 shall be a condition precedent for filing such application.

11. In the event such an application is filed, after compliance with the condition of payment of amount within the stipulated period, the learned Judge, Court of Small Causes is requested to decide the same in accordance with law before the delivery of the judgment without being influenced by observations made by this Court.

12. The petition stands disposed.

(N.J. JAMADAR, J)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 04/09/2025 18:27:02