

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 14933 OF 2025

Bharati G. Patel and Anr.

...Petitioners

Versus

State of Maharashtra and Ors.

...Respondents

Dr. Yusuf Iqbal Yusuf a/w. Zubin Sheth, Shabhazkhan Sandi and
Afnan Hussain i/b. M/s. YNA Legal Advocates, advocate for
the Petitioners.

Ms. Savina R. Crasto, AGP for Respondent No.1 – State.

Mr. O. A. Das, advocate for Respondent No.2.

CORAM: MANJUSHA DESHPANDE, J.

DATED: 31ST OCTOBER 2025.
(VACATION COURT)

PC:-

1. The present matter is moved urgently seeking stay to the order passed by the Debt Recovery Appellate Tribunal, Mumbai, in Interim Application No. 668 of 2025 in Miscellaneous Appeal No. DN/1683 of 2025.

2. According to the Petitioners though the order impugned came to be passed on 28th October, 2025, till date the impugned order has not been uploaded by the DRAT, Mumbai. This fact is not disputed by the learned counsel appearing for Respondent No.2–Bank. The original proceedings filed by the Petitioners are still pending before the DRT, Mumbai–I. However, interim application seeking stay to the possession has been rejected by the DRT,

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Mumbai-I by order dated 29th September, 2025. Against which the Petitioners had filed Appeal before the DRAT. It is submitted that when the Interim Application was heard on 27th October, 2025, the DRAT, Mumbai has observed that unless the condition of pre deposit under Section 18 (1) of the SARFESI Act, 2002 is complied with, the Appeal filed by the Petitioners cannot be entertained. Thereafter, the matter was directed to be listed on 28th October, 2025 for further consideration.

3. When the matter was heard on 28th October, 2025, the Petitioners were directed to deposit the amount of 20% of 62.47 crores in two installments, first installment till 11th November, 2025 and second installment upto 25th / 27th November, 2025.

4. The learned advocate for the Petitioner relies on the orders passed by the Hon'ble Supreme Court in the case of ***M/s. Sunshine Builders and Developers Vs. HDFC Bank Limited through the Branch Manager and Ors.***, in Civil Appeal No.5290 of 2025 (Special Leave Petition (Civil) No.10875 of 2025, wherein the Hon'ble Supreme Court more particularly paragraph no.16, has observed thus:

“16. One can understand that if any final order is passed by the DRT, determining the liability of the borrower or any other liability of any person, and an appeal is preferred under Section 18 of the SARFAESI Act to the appellate tribunal, the provision of pre-deposit would come into play. However, what would be the position if an order like the one passed in the present litigation, i.e., declining to implead the auction purchaser in the pending proceedings before DRT is concerned?”

5. According to the Petitioners, unless the final order is passed by the DRT, Mumbai-1 determining the liability of the borrower, the Appellate Tribunal cannot insist for pre deposit of amount for entertaining the Appeal under Section 18 of the SARFESI Act.

6. Heard the learned advocate appearing for the Respondent No.2-Bank. He has placed on record the reply affidavit and opposes the Writ Petition.

7. As on today, the impugned order dated 28th October, 2025 is not uploaded and a notice is already issued by the Court Commissioner dated 30th September, 2025, which is annexed as at page 511 of the Writ Petition (Exhibit-G). The date for taking physical possession of the secured asset is fixed by the Court Commissioner tomorrow i.e. on 1st November, 2025, and the Court Commissioner is likely to take physical possession of the property of the Petitioners.

8. In view of the fact that the impugned order dated 28th October, 2025 is not available till date, the communication dated 30th September, 2025, for taking physical possession shall not be acted upon till 4th November, 2025.

9. List the Writ Petition for consideration on merits on 4th November, 2025.

(MANJUSHA DESHPANDE, J.)