IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16315 OF 2025

Prudent ARC Limited … **Petitioner**

V/s.

Liquidator, High Court,
Bombay & Ors. … **Respondents**

Mr. Cyrus Ardeshir, Senior Counsel a/w Mr. Ritesh Hegde, Mr. Sajjad Siddique, Ms. Rubina Khan i/b M/s. Fortis India Law for Petitioner.

Ms. Sonali Jain a/w. Ms. Anushree Talekar for Respondent Nos.2 to 6.

Mr. Karl Tamboly a/w. Mr. Somesh Talla, Ms. Rupa Patel i/b Ms. Pavitra Manesh for Respondent No.10.

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

RESERVED ON : 2nd DECEMBER 2025
PRONOUNCED ON : 9th DECEMBER 2025

ORDER (Per Farhan P. Dubash, J)

1. The present Writ Petition invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, seeking issuance of a writ to quash and set aside the order dated 19th November 2025 **(impugned order)** passed by the Debts Recovery Appellate Tribunal,

Mumbai **(DRAT)** in Regular Appeal No. 18 of 2024 and Miscellaneous Appeal No. 27 of 2024, and further seeking a direction to the Recovery Officer, Debts Recovery Tribunal–II, Mumbai (**DRT**) to conduct a fresh valuation of the properties and for the entire process of auction/sale to be conducted afresh.

FACTS IN BRIEF

2. For a proper appreciation of the controversy involved, the relevant facts may briefly be set out hereunder:

(i) The Petitioner is the assignee of the debt of Global HiTech Industries Limited, having acquired the same from the State Bank of India, JM Financial Asset Reconstruction Company Limited, Invent Asset Securitization and Reconstruction Private Limited, and ARCIL Limited. The Petitioner presently holds 75.61% of the total secured lending availed by the borrower against the security of the mortgaged and/or charged properties.

(ii) The above-referred banks and financial institutions had filed Original Application **(OA)** No. 1381 of 2016 before the DRT, which came to be rejected vide an order dated 15th January 2019. Pursuant thereto, recovery proceedings were initiated by the

Recovery Officer of the DRT, being Recovery Proceedings No. 7 of 2019, which were subsequently re-numbered as Transfer Recovery Proceedings No. 01 of 2023.

(iii) Respondent No. 1 – Global HiTech Industries Limited is the principal borrower company, which is presently undergoing liquidation, and an Official Liquidator has been appointed by this Court.

(iv) Respondent Nos. 2 to 6 are the borrowers and guarantors (**Collectively referred to as borrowers**) in respect of the said credit facilities and were parties to the proceedings before the DRT in Original Application No. 1381 of 2016.

(v) Respondent No. 10 is the declared successful bidder of Lot No. 3, in whose favour the auction came to be confirmed for a consideration of Rs. 23.28 crores.

(vi) Respondent No. 11 is the service provider for the auction proceedings, and Respondent No. 12 is the Recovery Officer of DRT, who has confirmed the auction sale (**Recovery Officer**).

(vii) The lead bank had filed Original Application No. 1381 of 2016 before the DRT. Upon the said Original Application being allowed, a Recovery Certificate bearing RC No. 7 of 2019 came to be issued.

(viii) Pursuant to the recovery proceedings, the Recovery Officer initiated a public auction in respect of the secured assets by issuing a Sale Proclamation Notice dated 9th February 2023. The secured assets were proposed to be auctioned lot-wise, as under:

- *"Lot No. 1: Land and Building (Factory Premises) situated at Kanaiyebe, near Asian Motors Company, Bhuj–Bachau Road, Taluka: Bhuj, District: Kutch – 370140*
- *Lot No. 2: Plant and Machinery lying at the Land and Building (Factory Premises) situated at Kanaiyebe, near Asian Motors Company, Bhuj–Bachau Road, Taluka: Bhuj, District: Kutch – 370140*
- *Lot No. 3: Land and Building (Factory Premises) situated at Kanaiyebe, near Asian Motors Company, Bhuj–Bachau Road, Taluka: Bhuj, District: Kutch – 370140, along with the Plant and Machinery lying at the said factory premises"*

(ix) As per the Sale Proclamation Notice, the auction was scheduled to be held on 24th March 2023 between 2.00 pm and 3.00 pm by way of e-auction through the website maintained by Respondent No. 11.

(x) The Recovery Officer received the e-auctioneer's report in respect of Lot Nos. 1 to 3 at 4.00 pm on the same day, wherein it was recorded that no bids were received for *Lot No. 1*, the highest bid of Rs. 14.27 Crores was received for *Lot No. 2*, and the highest bid of Rs. 23.28 Crores was received for *Lot No. 3*.

(xi) The Recovery Officer observed that *Lot Nos. 1 and 2* formed part of *Lot No. 3* and, accordingly, declared the sale of *Lot No. 3* in favour of Respondent No. 10 successful. The bid of Rs. 14.27 Crores received in respect of *Lot No. 2* from Manibhadra Sales Corporation was therefore, cancelled.

(xii) Subsequent to the auction, three appeals came to be filed by various unsuccessful bidders before the DRT, all of which came to be dismissed by a common order dated 28th June 2023.

(xiii) On 30th June 2023, two appeals were filed challenging the common order dated 28th June 2023 passed by the DRT before the DRAT.

(xiv) The DRAT, by the impugned order dated 19th November 2025, dismissed Regular Appeal No. 18 of 2024 and Miscellaneous Appeal No. 27 of 2024 and confirmed the auction sale in favor of Respondent No. 10.

3. In the present Writ Petition, no challenge has been made to the sale proclamation notice. Instead, the challenge that is sought to be raised, is directed against the discretion exercised by the Recovery Officer thereunder, in confirming the auction sale in favour of Respondent No. 10, primarily on the ground that the auction sale was not conducted in a legal or transparent manner since the properties/secured assets were grossly undervalued.

4. The sale proclamation notice prescribes the terms and conditions of the sale of the properties that was conducted by the Recovery

Officer. As more particularly set out therein, the reserve price for *Lot No. 1* (which comprised land) was fixed at Rs. 18,06,00,000/- whereas, that of *Lot No. 2* (which comprised plant and machinery) was fixed at Rs. 3,47,00,000/- and that, of *Lot No. 3* (which comprised of both, land & plant and machinery) was fixed at Rs. 21,53,00,000/-. Accordingly, bidders were permitted to bid '*Lot-wise*' and the Recovery Officer was invested with the discretion to declare the highest bidder to be the purchaser of any *Lot*. In the auction that was conducted, we are informed that there were no bidders for *Lot No. 1* whilst, *Lot No. 2* had 17 bidders and *Lot No. 3* had 9 bidders. The highest bid for *Lot No. 2* was Rs. 14.27 Crores whilst the highest bid for *Lot No. 3* was Rs. 23.28 Crores. Since there were no bids for *Lot No. 1* and the highest bid for *Lot No. 3* (submitted by Respondent No. 10) was greater than the reserve price of Rs. 21.53 Crores, the Recovery Officer accepted and declared that bid as the highest bidder and confirmed the auction sale in favour of Respondent No. 10. In the bargain, the bids for *Lot No. 2* were naturally, rejected.

SUBMISSIONS

5. Mr. Ardeshir, learned Senior Counsel appearing on behalf of the Petitioner, has taken us through the relevant documents. Simply put, the main grievance of Mr. Ardeshir was that the Recovery Officer did not conduct the auction in a legal and transparent manner inasmuch as, he

ought to have appreciated that since the highest bid for *Lot No. 2* was Rs. 14.27 Crores, by accepting the highest bid of Rs. 23.28 Crores for *Lot No. 3*, in effect, the Recovery Officer has allowed the land (comprised in *Lot No. 1* and which had a reserve price of Rs. 18.06 Crores) to be sold at an effective price of only Rs. 9.01 Crores which was half its reserve price. Mr. Ardeshir has submitted that the Recovery Officer when faced with such a peculiar situation, ought not to have concluded that auction and should have conducted a fresh auction after getting fresh valuation done for the *Lots*. He also points out that due to various technical glitches in the online auction process, various bidders who intended to participate in the bidding process were unable to do so.

6. Ms. Sonali Jain, learned Counsel appearing on behalf of Respondent Nos. 2 to 6 supports the argument made by Mr. Ardeshir. She adds that by confirming the sale in favour of Respondent No. 10 at Rs. 23.28 Crores, Respondent Nos. 2 to 6 are made to suffer a huge monetary loss inasmuch as, the Recovery Officer has permitted the sale to be completed at a grossly undervalued price. She states that even as on date, there is a buyer for Lot No. 3 who is willing to pay a sum of Rs. 33 Crores and accordingly, it would be in the fitness of things that a fresh auction be conducted so that the properties/secured assets, fetch the best price.

7. On the other hand, Mr. Tamboly, learned Counsel appearing on behalf of Respondent No. 10 has vehemently opposed the present Writ Petition and the reliefs sought therein. He submits that all the contentions that are now sought to be raised by the Petitioner have already been taken before the DRAT and dealt with in the impugned order. He is at pains to point out that the sale was concluded more than 30 months ago and his clients have already deposited the amount of Rs. 23.28 Crores but the properties/secured assets have not yet been given to them. In the bargain, due to the auction sale being challenged, initially by the unsuccessful bidders and now, by the Petitioner, he submits that Respondent No. 10 has been deprived of the benefit of the said monies. In the circumstances, he submits that no interference is warranted by this Court. He has relied on the decision of the Apex Court in ***M.S. Sanjay Vs. Indian Bank and Ors***[1], wherein it has been reiterated that the remedy under Article 226 of the Constitution of India is discretionary in nature and that even where an action or order is found to be illegal or invalid, the High Court may, in appropriate cases, refuse to exercise its extraordinary jurisdiction with a view to doing substantial justice between the parties.

ANALYSIS & FINDINGS

8. We have considered the submissions of the parties and with

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their assistance, perused the record. The impugned order is a detailed and a well-reasoned one. On the issue of technical glitches, the DRAT has meticulously recorded the submissions of the parties and the case law cited by them and thereafter, by applying the propositions laid down in the said case law, recorded a finding that no adequate and cogent proof on such technical glitch was submitted and therefore, the said contention is not countenanced.

9. On the aspect of undervaluation, the DRAT has referred to the two valuation reports, the first one of February 2022 by M/s. Longani (which fixed the fair market value of the land at Rs. 18.06 Crores and that of the plant and machinery at Rs. 3.47 Crores) and the second one of September 2022 by M/s. Multi Engineers (which fixed the fair market value of the land at Rs. 23.40 Crores and that of the plant and machinery at Rs. 4.50 Crores) and noted the difference of Rs. 5 Crores between the reports. However, it also noted that when the borrowers pressed for fixing the reserve price on the basis of the second valuation report, State Bank of India (predecessor of the Petitioner herein) strongly opposed the same and insisted on reliance on the first valuation report. Ultimately, this dispute came to be resolved by the Recovery Officer by accepting the contention of the Bank and fixing the reserve price, by relying on the first valuation report, on the basis of which, the sale proclamation notice came to be

issued. Thus, the DRAT held that the Bank cannot be permitted to blow both, hot and cold and now challenge the auction on the ground that there was gross undervaluation of the property.

10. On this topic, the DRAT has further discussed the application preferred by the Bank for stay of sale and for re-auction (Exh 75) and has arrived at a finding that the same was dismissed by the Recovery Officer on 30th June 2023 even though the noting read: "*Exhibit 75 by the CH Bank is without any merit and liable to be dismissed*". Similar challenges by other parties also came to be rejected. The DRAT has then noted that without filing an appeal against this order before the DRT, the Bank had directly/straightaway approached the DRAT and on this ground also, held that such action was impermissible and an appeal was not maintainable at the instance of the Bank. The DRAT has also noted that even the borrowers had merely filed an appeal against the order of the Recovery Officer which was not even numbered. The DRAT has also noted collusion between some of the unsuccessful bidders, some of whom had filed an appeal challenging the auction before the DRT and DRAT.

11. Ultimately, the DRAT has concluded that when not a single bid was made for the land contained in *Lot No. 1,* the Recovery Officer was wholly justified in exercising the discretion invested in him by virtue of

express provisions contained in the sale proclamation notice and rejecting the highest bid for *Lot No. 2,* despite the same being Rs. 14.27 Crores and instead, accepting the highest bid of Rs. 23.28 Crores for the combined *Lot No. 3* submitted by Respondent No. 10 as the same was in excess of the reserve price of Rs. 21.53 Crores. In the process, the DRAT has also noted that since the party with the highest bid for *Lot No. 2* had not prosecuted its appeal, it was no longer interested in participating in the auction process.

12. Accordingly, in paragraph 41 of the impugned order, the DRAT has noted thus:

> *"41. From the discussions held thus far;*
>
> *i) It is established that the Appellant Bank has not filed any Appeal against the order passed by Recovery Officer on 24.03.2023 and straightaway filed this Appeal. This Tribunal finds that such an Appeal is not maintainable as discussed above.*
>
> *ii) The Application in Exhibit A75 filed by the Bank before Learned Presiding Officer was dismissed and the Bank has not filed any Appeal against that order.*
>
> *iii) Only after AIIS and Karan Enterprise filed Applications before Recovery Officer, the Bank is sailing with them, filed this Appeal claiming that the property did not fetch adequate price, probably, the price of its expectation.*
>
> *iv) AIIS has not established technical glitch on the side of auctioneer, to sustain the claim that because of the technical glitch on the side of the auctioneer, it could not upload online bid.*
>
> *iv) Except bald allegation of the collusion between the Auction Purchaser and the Recovery Officer, there is no material in proof of the allegation of collusion.*

> *v) Lot No. 3 consists of both movables and immovables which have been sold above the reserve price. Simply because subsequent to the sale, there was higher offer and the properties could have been sold in future sale for higher price, a validly held sale, cannot be set aside, unless fraud or collusion is established.*
>
> *vi) Discretion is vested with the Recovery Officer to accept or reject a bid. When there was no bidder for Lot No. 1, Recovery Officer accepted the bid for Lot No. 3, consists of both movables and immovables and rejected the bid in respect of Lot No. 1. The Successful bidder of Lot No. 2, has not prosecuted its Appeal. In the aforesaid circumstances, this Tribunal is of the view that the Recovery Officer has rightly exercised his discretion.*
>
> *vii) Unless irregularities or illegalities are established, the scope of judicial review of public auction is very limited. No such irregularities or illegalities in the sale is established in this case."*

13. We are in agreement with the findings of the DRAT recorded in the impugned order. The Petitioner has not established the existence of any illegality, arbitrariness or procedural irregularity in the auction process so as to warrant interference from this Court in writ jurisdiction. The mere fact that a much higher bid was received for *Lot No. 2* than the reserve price cannot, by itself, constitute a ground to invalidate a completed auction process, that too, one which was concluded more than 30 months ago. Entertaining such a contention would have far-reaching consequences, as it would enable every unsuccessful bidder to approach this Court on the simple assertion that a higher bid could have been made or was later forthcoming, thereby undermining the finality and commercial viability of auction proceedings. This approach would defeat the very purpose of

conducting auctions and discourage genuine bidders from participating due to the uncertainty of post-auction challenges, which position is well settled and reiterated in several judicial pronouncements.

14. We accordingly do not find any merit in the present Writ Petition which is disposed of, in terms of the following order:

:: <u>ORDER</u> ::

Writ Petition No. 16315 of 2025 is hereby dismissed with no order as to costs.

(FARHAN P. DUBASH, J.) **(R.I. CHAGLA J.)**

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JYOTI PRAKASH PAWAR Digitally signed by JYOTI PRAKASH PAWAR Date: 2025.12.09 15:27:57 +0530