

**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 with Mr. Sajjad Siddique, Ms. Rubina Khan i/b. M/s. Fortis India Law for the Petitioner

Ms. Sonali Jain for Respondent Nos. 2 to 6

Mr. Karl Tamboly with Mr. Somesh Talla, Ms. Rupa Patel and Kadambari Patil i/b. Ms. Pavitra Manesh for Respondent No.10

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

DATE : 11th DECEMBER 2025

ORDER:

1. After reserving the matter for judgment on 2nd December 2025, this Court pronounced the judgment on 9th December 2025 in open court when the present Writ Petition was dismissed. At the time of pronouncing the judgment, Mr. Cyrus Ardeshir, learned Senior Counsel appearing on behalf of the Petitioner was desirous of seeking a stay of the judgment. However, he informed us that his client had already approached the Supreme Court prior to the pronouncement of the judgment, on the basis that the same would be against them and an order was already

passed on 8th December 2025 in the Special Leave Petition (**SLP**) preferred by the Petitioner. However, he candidly mentioned that since a copy of the said order had not yet been uploaded by the Supreme Court on the website, he was unable to tell us what reliefs had been granted therein. Accordingly, he sought liberty, which we granted, to mention the matter (for stay) after a copy of the Supreme Court order was uploaded and made available so that an appropriate application could be made, keeping in mind the contents of the said Supreme Court order.

2. Today, on 11th December 2025, the matter was mentioned by Mr. Ardeshir at 11:00 am who orally sought to make the application for stay. He also handed over a copy of the order dated 8th December 2025 passed by the Supreme Court. Since the said application was opposed by Mr. Karl Tamboly, learned Counsel appearing on behalf of the Successful Auction Purchaser – Respondent No. 10 herein, we directed Mr. Ardeshir to file a praecipe and placed the matter on the circulation board at 03:00 p.m.

3. When the matter was called at 03:00 pm, Mr. Ardeshir handed over a copy of the praecipe of the today's date seeking interim protection of stay of our judgment dated 9th December 2025 so as to enable his client to approach the Supreme Court. He states that an SLP has already been prepared and the same is in the process of being finalised

and will be filed within a day or two and accordingly has sought for stay of our judgment.

4. Mr. Ardeshir relies on the copy of the Supreme Court order dated 8th December 2025 and submits that even when the Petitioner had approached the Supreme Court (before the judgment dated 9th December 2025 was pronounced by this Court), the Supreme Court was pleased to entertain the Petitioner's request and had passed an order directing that no third party rights should be created (by Respondent No. 10 herein) in the subject property before the pronouncement of the judgment by this Court. He submits that the Respondent No. 10 has already taken possession of the subject property and is in the process of the disposing of the movable property which greatly prejudices his client's rights. Accordingly, and in view of the interim protection that was granted by the Supreme Court and which was in operation only till the judgment was pronounced by this Court (and hence, came to an end on 9th December 2025) he requested this Court to grant a similar interim protection directing Respondent No. 10 not to create any third party rights in the subject property (both immovable and movable) for a period of two weeks.

5. Mr. Karl Tamboly appearing for Respondent No.10 vehemently opposed this application. He was at pains to point out that the Supreme Court's order dated 8th December 2025 came to be passed under

circumstances where the parties had not approached the Supreme Court with true and correct facts. He submits that the Supreme Court appears to have been persuaded into passing the said order on account of the submissions made by the parties who had appeared on that date *viz.* only the Petitioner and Respondent Nos. 2 to 5 (Borrowers) who had supported the case of the Petitioner, as is more particularly also recorded in the said order. It was informed to the Supreme Court that though possession of the subject property was already taken (by Respondent No.10) there was no likelihood of any third party interest being created therein before the pronouncement of the judgment by this Court and on this erroneous basis, invited the Supreme Court to pass the said order of injunction. He submits that no notice of this SLP was ever given to his client despite the Petitioner knowing fully well that his client was the aggrieved and contesting party in the said matter and (as the order reveals) only the Borrowers (Respondent Nos. 2 to 5) appeared in the matter on 8th December 2025, allegedly on notice pursuant to a Caveat which was interestingly filed by them on the very same day, as reflected from the Supreme Court website, a printout of which is also handed over to this Court. He therefore submits that this is a clear case where the Petitioner and the Borrowers have colluded with each other before the Supreme Court and in such circumstances, no stay be granted by this Court.

6. We have heard and considered the submissions made by the parties. It is undisputed that possession of the subject property (both, immovable and movable) was handed over to Respondent No. 10 on 2nd December 2025 and they are in possession thereof since then. Moreover, though the injunction order came to be passed by the Supreme Court on 8th December 2025, the same was uploaded only on 10th December 2025 by which time, this Court had already pronounced the judgment on 9th December 2025 dismissing the present Writ Petition and, as a result, the said Supreme Court order had already come to an end. This in view of the injunction/protection granted therein, being made operational, only till the date on which this Court pronounced the judgment. Hence, for all practical purposes there has been no stay of our judgment dated 9th December 2025. In the circumstances, the mere fact that the Supreme Court had previously granted injunction/stay and that too till the pronouncement of our judgment does not persuade us to stay our judgment dated 9th December 2025. This is moreso when Respondent No. 10, who is the auction purchaser of the subject property, has paid a substantial amount of money since the past 30 months, and taken possession thereof since 2nd December 2025.

7. In the circumstances and considering the findings that we have arrived at and recorded in the judgment dated 9th December 2025,

we do not think this is a fit case to grant any stay in favour of the Petitioner. Accordingly, we reject the said application for stay and the praecipe filed by the Petitioner is hereby disposed of with no orders.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)

Shubham G.
WP 16315-2025

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PRAKASH
PAWAR

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by JYOTI
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