IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 16473 OF 2025

Hinduja Leyland Finance Ltd. … Petitioner

V/s.

Union of India and Anr. … Respondents

Mr. Mandar Soman with Prafull Chipte i/b. Medha Rane for the Petitioner
Mr. Mohamedali M. Chunawala with Vineet Jain for Respondent No.1
Mr. Rehaan Shaikh for Respondent No.2

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

RESERVED ON : 23rd DECEMBER 2025
PRONOUNCED ON : 24th DECEMBER 2025

ORDER (Per Farhan P. Dubash, J):

1. The present Writ Petition has been filed by the Petitioner challenging an order dated 18th November 2025 passed by the Presiding Officer, DRT-II, Mumbai in Interim Application No. 2462 of 2025 in Securitisation Application No. 205 of 2025. The Petitioner is a notified financial institution under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 **(SARFAESI Act).**

2. Interim Application No. 2462 of 2025 was taken out by the Original Applicant/Respondent No. 2 herein seeking to restrain Original Respondent – Hinduja Leyland Finance Limited from taking physical possession of the secured assets being combined office premises Nos. 224 and 225 situated on the 2nd Floor of Nav Vyapar Bhavan Premises Co-operative Housing Society Ltd. at 49, P D Mello Road, Carnac Bunder, Princess Dock Division, Masjid Bunder (East), Mumbai-400 009 that was scheduled on 18th November 2025 pursuant to the possession notice dated 30th October 2025. By the order dated 18th November 2025 **(impugned order)** the said I.A. was allowed and the bank was restrained from taking possession of the secured assets. A perusal of Paragraph-6 of the impugned order would reveal that the main reason which prompted DRT-II into passing the said order in favour of the Applicants/Original Respondent No. 2 herein was that the Corporate Insolvency Resolution Process **(CIRP)** was in continuation.

3. This matter had come up on 17th December 2025, when this Court had passed an order of even date recording the aforesaid and in particular the averments made in Paragraph 5.20 of the said I.A. which clearly set out that pursuant to the order dated 6th May 2024, the CIRP of the Applicant/Original Respondent No. 2 was closed – withdrawn and the

moratorium was removed.

4. Despite the aforesaid factual scenario which is pleaded by the Original Applicant/Respondent No. 2 herein, the impugned order records the following:

> *6. It is clear from the perusal of the records that the demand notice was properly served upon the mortgaged office. So, it cannot be said that demand notice was not properly served upon the Applicant. However, in the light of public pronouncement dated 06.05.2022, it is mentioned that the NCLT has ordered the commencement of a corporate insolvency resolution process of the Shree Sai Industries Private Limited on 20.12.2019. As during the pendency of CIRP, the corporate debtor approached the Applicant for settlement and went under the Settlement Agreement, thereafter, the IRP filed the withdrawal application. Thereafter, the CD breached the settlement agreement, and the Financial Creditor filed the application for continuation of CIRP and the same got admitted by NCLT order dated 21.01.2022 and the withdrawal application got dismissed. Hence, the CIRP against the company is continued.*
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> *7. The fact of moratorium under Section 14 of IBC, 2016 is also mentioned in the order dated 20.12.2019 in the matter of Sajjan Kumar Agarwal Vs. Shree Sai Industries Private Limited in CP (IB) 2547/MB/C-IV/2019. The fact of moratorium is not opposed by Ld. Advocate for Respondent.*
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> *8. In the wake of foregoing discussion, this Tribunal finds prima facie case in favour of the Applicant due to above-mentioned moratorium. Balance of convenience tilt in favour of*

the Applicant. I.A. No. 2462 of 2025 is allowed.

5. Under these circumstances, when there is a pleaded case by the Applicant/Respondent No. 2 herein that the CIRP was closed – withdrawn and the moratorium was removed pursuant to the order dated 6th May 2024, we fail to see how the impugned order could have recorded the observations that are extracted and reproduced above and which relate to the period much prior to May-2024.

6. Mr. Mandar Soman, learned Counsel appears on behalf of the Petitioner also points out that in the last sentence of Paragraph-7 of the impugned order, it is incorrectly recorded that the fact of moratorium is not opposed by his client when the same was expressly opposed.

7. Today, Mr. Rehaan Shaikh, learned Advocate appears on behalf of the Respondent No. 2 and seeks time to file a detailed Affidavit-in-Reply to the present Writ Petition. However, on inquiry by this Court, he fairly submits on instructions that pursuant to the order dated 6th May 2024, the CIRP of his client was closed and withdrawn and the moratorium was also removed, which position continues even as on date.

8. In the premises, this Court is of the view that there is no need or requirement to permit his client to file a detailed Affidavit-in-Reply to the present Writ Petition. The impugned order erroneously proceeds on the basis that a moratorium is in place under Section 14 of the Insolvency and Bankruptcy Code, 2016 **(IBC)** when this is admittedly not so. Accordingly, the entire basis of the impugned order stands vitiated and as a result, the impugned order cannot be permitted to stand.

9. Accordingly, the present Writ Petition is disposed of in terms of the following order:

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

(i) The impugned order dated 18th November 2025 passed by the Presiding Officer, DRT-II, Mumbai in I.A. No. 2462 of 2025 in S.A. No. 205 of 2025 is hereby quashed and set aside.

(ii) The Petitioner is permitted to avail of the statutory remedies available to it under the SARFAESI Act for the purposes of executing the order dated 31st May 2025 passed by the Chief Judicial Magistrate, Esplanade, Mumbai under Section 14 of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 for taking possession of the secured assets.

(iii) The Writ Petition is accordingly disposed of. There shall be 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: 2025.12.24 16:12:48 +0530