



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2902 OF 2025

Vasantrao Ramkrushnaji Devghare

.Vs.

Debt. Recovery Appellate Tribunal, Mumbai and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr. R.A. Bagde, Advocate for the petitioner.

CORAM : NITIN W. SAMBRE AND
SACHIN S. DESHMUKH, JJ.
DATE : 14.07.2025

P.C.

Heard.

2. The petitioner has put forth the following
prayers:-

(i) To quash and set aside order dated 29.07.2024 passed by the Debt Recovery Appellate Tribunal, Mumbai maintaining the order of rejection restoration application MA No.28/2012 arising from securitisation application no 48/2012, dated 13/06/2012, by not depositing costs of Rs.3000/- by the petitioner in I.A. No.149/2012 in S.A. No.48/2012.

(ii) Quash and set aside sale certificate dated 28.01.2013 (annexure No.P-37-B) executed by the respondent No.3 between the 5th and 6th respondent not complying the mandatory

provision of section 13(8) of the Securitisation & Reconstruction of Financial Assets and Enforcement Act, 2002 and Rule 8(5) and (6) of the Security Interest (Enforcement) Rules, 2002,

(iii) Quash and set aside the sale certificate dated 22/08/2022 (Annexure P-38-B) executed by the 5th and 6th respondent in favour of 7th and 8th respondent during the period of waiver application granted by the learned chairperson DRAt, Mumbai

(iv) Issue writ of mandamus against respondent No.3 and 4 in respect of attachment action in the house on 04/05/2012 not informing to the petitioner and give direction to respondent No.3 bank to hand over all house hold things in the house as per list expect given by respondent No.3 bank as per panchanama and provide video shooting made by respondent no.3 on 04/05/2012 while breaking the lock of three stored building of the petitioner ; (annexure P-25).

(v) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to stay and execution, operation and implementation of the impugned order dated 29.07.2024 (annexure P-1) and

(vi) To restraint to respondent no.8 not to sell the mortgage property of the petitioner till the date of deciding right of redemption of the petitioner during the pendency of this writ petition;

(vii) Interim/ad interim relief in terms of prayer clause (e) and (f) above be granted.

(viii) For such further and other relief, orders and directives as the nature and circumstances of the case may require or justify or as this Hon'ble Court may deem fit and proper in the aforesaid circumstances of the case, the aggrieved will be put to further irreparable loss, grave suffering, great hardship, heavy injury and serious loss."

3. The petitioner, who has availed the loan from the financial institution in the year 2008 is defaulted. Resultantly, the proceedings were presented under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "SARFAESI Act"). While presenting the proceedings before the Debts Recovery Tribunal, the appeal was presented in the year 2011 wherein initially an application IA No.480/2011 was taken out seeking amendment in the said appeal with a prayer that the action to be taken by financial institution, as the account of the applicant was never classified as non performing asset (N.P.A.). Even the representation of the petitioner was not considered, as such every action in relation to recovery of loan amount was subject matter of challenge. The DRT by its order dated 17.02.2012 rejected the said application for amendment.

4. After being unsuccessful before the DRT the petitioner in the interregnum was before this Court on successive occasions. Initially writ petition No.598/2011 was

presented wherein the order of status quo was directed to be maintained, the same was confined for seven days vide order dated 04.02.2011 and no endeavour thereafter is made by the petitioner to extend the same. Apart from filing of the aforesaid writ petition, the petitioner again presented writ petition No.820/2013 wherein petitioner was permitted to deposit amount, so as to satisfy the requirement of the provisions of SARFAESI Act, to the extent of 25% of amount towards the statutory deposit. Even thereafter the petitioner suffered an order of dismissal of the appeal in the year 2012. On account of dismissal of the proceedings presented by the petitioner which further culminated into sale deed. Having suffered the orders of dismissal, the petitioner, who was not diligent in prosecuting appropriate remedies available in law so as to raise appropriate challenge at an appropriate juncture to the orders, those were adverse to the interest of the petitioner. However, as said hereinabove having chosen not to take appropriate remedies at appropriate time the petitioner has now put forth multiple prayers before this Court and most of these orders are rendered in the year 2012 and now are put to challenge for first time in present petition in the year 2025.

5. Now challenge is raised after lapse of almost 13 long years. Nevertheless the order dated 29.07.2024 by which the application preferred by the petitioner bearing No.48/2011 which is dismissed on 21.03.2012 so also miscellaneous application seeking restoration of the same as the Debt

Recovery Appellate Tribunal rejected IA No.645/2022, is also presented after an unexplained delay of 13 long years since the dismissal of the appeal was in the year 2012. No immediate and prompt steps were taken seeking restoration of the same. While rejecting IA No.645/2022 the sequence of events recorded by Appellate Forum is not disputed by the counsel for the petitioner when confronted with a query about the serious lapses on the part of the petitioner to raise appropriate challenge promptly.

6. Considering the conduct vis-a-vis serious lapses on the part of the petitioner, no error could be noticed in the order rendered by the DRAT and nevertheless the attempt of petitioner is certainly aimed to gain the time to stifle the recovery proceedings deserves to be deprecated.

7. In our considered opinion, no case is made out to exercise writ jurisdiction at the instance of petitioner who is defaulter and even thereafter having failed to prosecute the proceedings diligently.

8. Accordingly petition is dismissed. However, no order as to costs.

(SACHIN.S. DESHMUKH, J)

(NITIN W. SAMBRE, J.)