2026:BHC-AUG:6455-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.14059 OF 2025

MS OM HARE RAM HARE KRISHNA THR ITS PROP SOPAN AND OTHERS

VERSUS

STATE BANK OF INDIA AND ANOTHER

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Mr. N.B. Patil, Advocate for petitioners

Mr. S.M. Gunjkar, Advocate h/f Mr. S.R. Deshpande, Advocate for respondent No.1

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CORAM : SMT. VIBHA KANKANWADI & HITEN S. VENEGAVKAR, JJ.

DATE : 10th FEBRUARY, 2026

ORDER :

. Present petition challenges the order dated 23.10.2025 passed by the Debts Recovery Appellate Tribunal, Mumbai in I.A. No.595 of 2025 in Regular Appeal (Diary) No.1224 of 2025. It further challenges the order passed by Debts Recovery Tribunal, Aurangabad in Securitization Application No.322 of 2025 dated 05.07.2025. Further, the petition also challenges the order passed under Section 14 under the SARFAESI Act by the District Magistrate on 25.04.2022. It is the case of petitioners that they are a proprietary concern and in order to run its business it has obtained a loan from respondent Bank by executing registered mortgage deed dated 11.12.2008. These properties were offered as collateral security for the loan and it includes the sole residential houses of the petitioners' family. On 16.05.2016 and 21.02.2019 the petitioners had availed renewed working capital facilities and ultimately the same was revised and reduced due to business slowdown. As the petitioners' business faced a downturn and the loan amount of petitioners was eventually become irregular, the respondent Bank classified the petitioners' amount as non performing assets on or about 28.08.2019. Thereafter the respondent Bank initiated the recovery proceedings under the SARFAESI Act by issuing statutory demand notice under Section 13(2) of the SARFAESI Act, 2002 dated 05.12.2019 calling upon the petitioners to pay the entire dues. The demand notice was served upon the petitioners and the objections were raised as mandated under Section 13(2) of the SARFAESI Act and Section 13(3A) of the said Act. It is the contention of the petitioners that without considering and disposing the objections of petitioners the notices were acted upon and respondent Bank proceeded to take symbolic possession of the properties. Subsequently, an application under Section 14 was moved before the District Magistrate, Aurangabad for taking possession of the secured assets. The District Magistrate passed an order on 25.04.2022 and pursuant to the said order the notices were issued by the Circle Officer to the petitioners for handing over the peaceful possession of the secured asset to respondent No.1. Petitioner states that the possession subsequently was not taken and the possession of the petitioners' property continued with the petitioners. As the petitioner was under the constant threat of losing possession and sale of the properties petitioner approached the Debts Recovery Tribunal at Aurangabad and preferred a Securitization Application No.322/2025 along with the delay application challenging the legality of measures / action taken by respondent No.1 bank and also the order passed by the District Magistrate, Aurangabad. The Debts Recovery Tribunal, Aurangabad on 05.07.2025 dismissed the petitioners' securitization application and also the interim application. Aggrieved by the same the petitioners' approach by way of regular appeal (Diary) No.1224 of 2025 along with I.A. No.592 of 2025 before the DRAT, Mumbai. The IA was for waiver of deposits under Section 18 of the SARFAESI Act with a prayer that without insisting for the said deposit the appeal be entertained and heard by the DRAT. The DRAT on 23.09.2025 after hearing both the parties directed the petitioner to deposit 25% of Rs.4,48,67,720/- comes to Rs.1,12,16,930/- in two equal installments within four weeks and failing which the appeal would stand rejected. The said regular appeal was heard by DRAT on 23.10.2025 and it came to be dismissed for non compliance of the conditional order dated 23.09.2025 according to the petitioner, without considering the merits of the matter.

Thus, the aforesaid order of dismissal of regular appeal of the petitioner for non compliance of deposit of 25% amount is challenged by the petitioner by way of present petition.

2 The petition was taken up for hearing on 02.02.2025, wherein the petitioner made a submission that the appellate tribunal has directed to deposit huge amount of Rs.1,12,16,930/- within a period of four weeks and accordingly, which according to the petitioner, was insufficient period and he prayed before us that if further time granted for deposit, then he is ready and willing to comply with the orders passed by the Appellate Tribunal on 23.09.2025. Taking into consideration that the statutory appeal was not decided on merits and it was only for non compliance of the order of deposit of 25% cost amount under the provisions of SARFAESI Act, we recorded the statement of petitioner as an assurance that it will comply the said order on or before 09.02.2026. Today, when the matter is again listed before this Court, the learned Advocate for petitioner submits that the order dated 02.02.2025 passed by this Court is not complied with and the statement made by petitioner before this Court is not abided.

3 The directions issued by the Appellate Tribunal to deposit 25% is a mandatory directions for entertaining any appeal filed against the order of

DRT. Such mandatory statutory directions cannot be relaxed and, therefore, ultimate effect of non compliance of the statutory provisions results into dismissal of the loan appeal as the same is not required to be decided on merits. We do not find any illegality in the order passed by the Appellate Tribunal dated 23.10.2025. The Appellate Tribunal has by its order dated 23.09.2025 taken a very reasonable view of granting two installments to the petitioner for deposit of 25% of the amount, but the same was not complied with. Subsequently, even this Court on 02.02.2026 gave one more opportunity to petitioner by granting time till 09.02.2026 to deposit the said amount, but even the assurance given to this Court, it has not been complied with. The conduct of petitioner clearly suggests that it is not interested in deposit of the amount as directed by DRAT and even the assurances and statements made to this Court are not being complied with. The intention seems to be to prolong the matter. Under such circumstances, we do not wish to exercise our writ jurisdiction under Article 226 of the Constitution of India. Even otherwise, there is no legal wrong in the order that has been challenged before this Court and, therefore, the writ petition stands **dismissed** with no order as to costs.

(HITEN S. VENEGAVKAR, J.) **(SMT. VIBHA KANKANWADI, J.)**

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