IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1082 WRIT PETITION NO. 15253 OF 2025

M/S. HOTEL YUVRAJ, THROUGH ITS PROPRIETOR SANJAY NARAYAN DESHMUKH AND OTHERS

VERSUS

THE AUTHORIZED OFFICER, BANK OF BARODA, JALGAON MAIN BRANCH

...

Mr. Vishwajeet Kapse, Advocate h/f Mr. A.A. Khande, Advocate for petitioner

Mr. S.R. Vakil, Advocate for sole respondent

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

DATE : 17th MARCH, 2026

ORDER : (PER : HITEN S. VENEGAVKAR, J.)

. The present petition is directed against the order dated 27.10.2025 passed by the Debts Recovery Appellate Tribunal, Mumbai in Miscellaneous Appeal No.1407 of 2025 in Interim Application No.586 of 2025. The petitioners have also called in question the demand notices dated 30.09.2022 and 19.01.2023 issued by the respondent bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In addition thereto, the petitioners have impugned the subsequent sale notices issued by the respondent bank in respect of the secured assets.

2 The challenge, thus, extends not only to the appellate order but also to the foundational measures initiated by the secured creditor under the SARFAESI Act. It is well settled that a notice under Section 13(2) constitutes the statutory demand calling upon the borrower to discharge the liability within the stipulated period, failing which the secured creditor becomes entitled to take recourse to measures under Section 13(4), including taking possession and sale of secured assets. The sale notices, therefore, are consequential in nature and flow from the failure of the borrower to comply with the demand notice.

3 In that view of the matter, the present petition essentially questions the legality and sustainability of the entire chain of proceedings initiated by the respondent bank under the SARFAESI Act, culminating in the impugned order of the Debts Recovery Appellate Tribunal.

4 The case of the petitioners, as can be gathered from the pleadings, is that they are engaged in the business of running a hotel under the name and style “M/s. Hotel Yuvraj – Veg and Non-Veg & Accommodation”, situated at Gat No.833/2, opposite Varangaon Police

Station, Taluka Bhusawal, District Jalgaon. For the purpose of establishing and developing the said business, the petitioners had initially availed a term loan of Rs.35,00,000/- from the State Bank of India, which was utilized for construction of the hotel building. In addition thereto, the petitioners had also availed an overdraft facility of Rs.20,00,000/- from Vijaya Bank, which facility came to be continued with the respondent bank at an interest rate of 11.25% per annum.

5 It is further the case of the petitioners that, in order to expand the business, they approached the respondent bank for additional financial assistance, pursuant to which loan facilities aggregating to Rs.1,02,00,000/- came to be sanctioned on different dates. Thereafter, in the year 2019, the petitioners again sought financial support towards working capital requirements, and upon consideration of their business proposal and eligibility, respondent bank sanctioned an additional loan of Rs.8,41,000/-.

6 According to the petitioners, though the loan facilities were availed for legitimate business purposes, the account subsequently became irregular. The respondent bank issued notice granting a period of 90 days to clear the overdue amounts, with a stipulation that failure to regularize the account would result in classification of the account as a Non-Performing Asset (NPA) in accordance with the prudential norms prescribed by the

Reserve Bank of India. Upon failure of the petitioners to comply with the said requirement, the account was classified as NPA, and consequentially, the respondent bank initiated proceedings under the provisions of the SARFAESI Act by issuing demand notices under Section 13(2).

7 Being aggrieved by the said action, the petitioners approached the Debts Recovery Tribunal, Aurangabad by invoking Section 17 of the SARFAESI Act. The Tribunal, after hearing both sides, passed an interim order dated 03.07.2025 whereby the respondent bank was permitted to take possession of the hotel premises, while restraining it from taking possession of the residential property of the petitioners. The Tribunal also granted liberty to the respondent bank to proceed further in accordance with law in the event of continued default. At the same time, the petitioners were granted an opportunity to repay the entire outstanding dues and close all loan accounts, with an observation that upon such repayment, the direction to take possession would stand deferred.

8 The petitioners, being dissatisfied with the said interim order, preferred Miscellaneous Appeal No.1407 of 2025 before the Debts Recovery Appellate Tribunal, Mumbai. In the said appeal, an application was filed seeking waiver or reduction of the statutory pre-deposit required under Section 18 of the SARFAESI Act. It was specifically contended that,

subsequent to issuance of notices under Section 13(2), the petitioners had deposited certain amounts with the respondent bank, and such payments ought to be taken into consideration while determining compliance with the requirement of pre-deposit. According to the petitioners, the amounts already deposited were approximately 40% of the total outstanding dues.

9 The Debts Recovery Appellate Tribunal, however, declined to grant the relief sought. By order dated 22.09.2025, the Appellate Tribunal directed the petitioners to deposit 40% of the outstanding amount, quantified at Rs.1,30,00,000/-, i.e. Rs.52,00,000/-, in two equal instalments. The first instalment of Rs.26,00,000/- was directed to be deposited on or before 24.09.2025 and the second instalment within four weeks thereafter, i.e. on or before 22.10.2025. The order further stipulated that in the event of failure to comply with the said condition, the appeal would stand dismissed without further reference to the Tribunal.

10 Aggrieved by the said order of the Debts Recovery Appellate Tribunal, as well as the earlier order passed by the Debts Recovery Tribunal below the interim application, the petitioners have approached this Court by way of the present writ petition.

11 It is required to be noted that the requirement of pre-deposit

under Section 18 of the SARFAESI Act is a condition precedent for entertaining an appeal and is intended to ensure that only *bona fide* and serious challenges are pursued. However, the extent to which such condition should be imposed in a given case necessarily depends upon the facts and circumstances of each case, including the conduct of the borrower and the payments, if any, already made. The grievance of the petitioners, therefore, essentially centers around the manner in which such discretion has been exercised by the Appellate Tribunal in the present case.

12 We have heard learned Advocate Mr. Vishwajeet Kapse, appearing for the petitioners on behalf of learned Advocate Mr. A.A. Khande. The matter was taken up on an urgent basis in view of the apprehended coercive action. It was submitted on behalf of the petitioners that the respondent bank, having already taken possession of the secured asset, namely the hotel premises, had scheduled an auction of the said property on the very day. The submission was that unless immediate protection is granted, the petition itself would be rendered infructuous.

13 However, learned counsel appearing for the respondent bank, who joined the proceedings online, informed the Court that though the auction process was conducted, no bids were received. In view of this development, the immediate urgency, insofar as the apprehended sale of the

secured asset is concerned, did not survive.

14 At that stage, having regard to the nature of the controversy and with a view to balance the competing interests of the secured creditor and the borrower, we deemed it appropriate to explore the possibility of an interim arrangement which would enable adjudication of the proceedings on merits. We, therefore, called upon the learned counsel for the petitioners to take instructions as to whether the petitioners were willing to deposit a reasonable amount towards the outstanding dues.

15 Upon instructions, learned Advocate Mr. Kapse submitted that the petitioners are ready and willing to deposit a sum of Rs.25,00,000/- with the respondent bank, and sought a period of eight weeks for the same. He further made a request that upon deposit of Rs.25,00,000/- this court may direct the original proceedings pending before the Debts Recovery Tribunal itself to be finally decided within some reasonable period instead of relegating the petitioner back to the appellate tribunal where only appeal was preferred against the interim order of DRT. While considering this request, it is required to be borne in mind that the dues have remained outstanding for a considerable period and the secured creditor has already invoked statutory remedies under the SARFAESI Act.

16 In the circumstances, and in order to ensure that the proceedings before the Debts Recovery Tribunal are not unduly prolonged, we are of the view that a shorter timeframe would meet the ends of justice. Accordingly, the petitioners are directed to deposit a sum of Rs.25,00,000/- within a period of four weeks.

17 We further direct that upon such deposit being made, the Debts Recovery Tribunal, Aurangabad shall take up the proceedings for final adjudication and dispose of the same expeditiously, preferably within a period of six months from today.

18 This course, in our view, strikes a balance between preserving the right of the petitioners to have their challenge adjudicated on merits and safeguarding the interest of the respondent bank in recovery of its dues, which is the underlying object of the SARFAESI Act.

19 It is necessary to record that learned counsel appearing for the respondent bank had, with some emphasis, submitted that the requirement of pre-deposit under Section 18 of the SARFAESI Act is mandatory in nature and that ordinarily 50% of the amount due is required to be deposited as a condition precedent for entertaining an appeal before the Debts Recovery Appellate Tribunal. It was, therefore, urged that no indulgence ought to be

shown to petitioners, particularly having regard to their continued default.

20 We have given our anxious consideration to the said submission and have carefully perused the scheme of Section 18 of the SARFAESI Act. Section 18(1) no doubt stipulates that an appeal shall not be entertained unless the borrower deposits 50% of the amount of debt due, as claimed by the secured creditor or as determined by the Tribunal, whichever is less. However, the proviso to the said provision expressly confers discretion upon the Appellate Tribunal to reduce the amount of such deposit, for reasons to be recorded, to a sum not less than 25%.

21 The legislative intent underlying this provision is twofold. On one hand, it seeks to ensure that frivolous or dilatory appeals are not entertained, thereby protecting the efficacy of recovery proceedings initiated by secured creditors. On the other hand, by incorporating a proviso enabling reduction of the deposit, it recognizes that in appropriate cases, insistence on the full statutory deposit may result in denial of an effective remedy. The provision, therefore, strikes a balance between the rights of the secured creditor and the borrower's right to avail the appellate remedy.

22 In the facts of the present case, having regard to the nature of the dispute, the amount already claimed to have been deposited by the

petitioners, and the willingness now expressed to deposit a further sum, we are of the considered view that directing deposit of Rs.25,00,000/- would be in consonance with the spirit of the proviso to Section 18 and would adequately safeguard the interests of the respondent bank while enabling adjudication on merits.

23 Accordingly, we direct that if the petitioners deposit an amount of Rs.25,00,000/- within a period of four weeks from today, the Debts Recovery Tribunal, Aurangabad shall proceed to hear and finally decide the proceedings pending before it, being Securitisation Application No.348 of 2024, within a period of six months from the date of this order.

24 It is clarified that the above direction is conditional, and in the event of failure on the part of the petitioners to deposit the said amount within the stipulated period, the respondent bank shall be at liberty to proceed and deal with the property further in accordance with law and also to take such actions as permission under the law.

25 With the aforesaid directions, the writ petition stands **disposed of**.

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

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