IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.640 OF 2026

Axis Bank Limited … Petitioner
Vs.
State of Maharashtra and another … Respondents

Mr. Alok D. Mishra for Petitioner.
Mr. Sagar Kotecha, Officer of Axis Bank Limited.
Mr. S. D. Vyas, Additional GP a/w. Ms. G. R. Raghuwanshi, AGP for Respondent No.1-State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
DATE : FEBRUARY 18, 2026

P.C. :

. Heard Mr. Mishra, learned counsel for the petitioner (secured creditor) and Ms. Vyas, learned Additional Government Pleader for respondent No.1-State. Respondent No.2 society has been served. Affidavit of service is tendered. The same is taken on record. There is no representation on behalf of the respondent No.2 society.

2. The petitioner bank is aggrieved by the action undertaken by the respondent No.1 seeking to attach the secured asset for recovery of the dues pertaining to the State Goods and Services Tax. Reliance is placed on Full Bench judgement of this Court in the case of *Janta Sahakari Bank Ltd. and another vs Joint Commissioner of Sales Tax and another*, **2022 SCC OnLine Bom 1767**. It is brought to the notice of this Court that the registration of the security interest of the petitioner bank in the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) dates back to 10.04.2018. It is submitted that the earliest notice of attachment, as claimed by respondent No.1, was dated 27.06.2023, followed up by the subsequent notice dated

23.08.2024, copy of which is annexed to the petition. It was submitted that since the CERSAI registration of the petitioner bank is much prior to the notice of attachment issued by the respondent No.1, in terms of the law laid down by the Full Bench of this Court, the petition deserves to be allowed.

3. The learned AGP submitted that in the Full Bench judgement of this Court a particular date, being 24.01.2020, is specified and it is laid down that if the proclamation or attachment is prior to 24.01.2020, it will have to be treated in a different manner as the relevant amendment in the Securitisation Act came into force from 24.01.2020. It was submitted that this aspect will have to be examined on facts.

4. In the light of the submission made by the learned AGP on behalf of the respondent No.1, we have examined the documents on record and we find that the addendum notice dated 23.08.2024 for attachment of the subject secured asset, itself, refers to an earlier notice dated 27.06.2023 in respect of dues pertaining to the State Goods and Services Tax. We are of the opinion that even if the said documents are to be taken into consideration, the earliest point in time when the respondent No.1 State issued notice for attachment was 27.06.2023, the documents on record clearly show that the CERSAI registration of the petitioner bank dates back to 10.04.2018, which is much prior to the notice of attachment issued by the respondent No.1.

5. The Full Bench judgement of this Court in the case of **Jalgaon Janta Sahakari Bank Ltd. and another vs Joint Commissioner of Sales Tax and another** *(supra)* emphatically lays down in paragraph 85 as follows:-

> "85. Priority means precedence or going before (Black's Law Dictionary). In the present context, it would mean the right to enforce a claim in preference to others. In view of the splurge of 'first charge' used in multiple legislation, Parliament advisedly

> used the word 'priority over all other dues' in the SARFAESI Act to obviate any confusion as to inter se distribution of proceeds received from sale of properties of the borrower / dealer. If a secured asset has been disposed of by sale by taking recourse to the Security Interest (Enforcement) Rules, 2002 it would appear to be reasonable to hold, particularly having regard to the non obstante clauses in section 31B and section 26E, that the dues of the secured creditor shall have 'priority' over all other including all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority."

6. The said judgement further observes in paragraphs 148 to 154 that even if the Central or State authorities are seeking to recover their dues, they will have to ensure that the attachment orders are also appropriately registered. In any case, in paragraph 154 of the said judgement, the cut-off date of 24.01.2020 is taken note of. In the light of the admitted position on facts in the present case that the CERSAI registration of the petitioner bank was of the year 2018 and the first notice of attachment was issued by the respondent No.1 in the year 2023, the case of the petitioner is squarely covered as per the said Full Bench judgement.

7. We are of the opinion that the dues of the petitioner bank, as a secured creditor, have priority over the dues claimed by the respondent No.1 in the facts and circumstances of the present case. Therefore, the petitioner has clearly made out a case in its favour for the writ petition being allowed.

8. In view of the above, the writ petition is allowed in terms of prayer clause (a), which reads as follows:-

> "(a) this Hon'ble Court be pleased to issue writ of Mandamus and / or Certiorari and / or any writ in the nature of Mandamus and / or Certiorari and / or any appropriate writ, order or direction, to the Respondent No.1 to remove its lien / charges, on the said flat recorded with the respondent No.2 or any other authority."

9. Consequential action shall be taken by the respondents at the earliest.

10. Pending applications, if any, stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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