

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

WRIT PETITION NO. 13437 OF 2025

Kishore Ramniklal Raja ... Petitioner
Versus
ICICI Home Finance Company Ltd. & Ors. ... Respondents
WITH
WRIT PETITION NO. 12492 OF 2025

Ms. Sana Raees Khan a/w Mehul Thakker and Palak Kasliwal i/by
SRK Legal for the Petitioner in WP/13437/2025.

Mr. Charles Desouza (through V.C.) a/w Mr. Nikhil Rajani i/by
M/s. V. Deshpande & Co. for Petitioner in WP/12492/2025.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 2nd APRIL 2026

P.C. :

. The bank (secured creditor) and the auction purchaser, both are before this Court in these two writ petitions. They are aggrieved by an order dated 30th July 2025 passed by Debts Recovery Tribunal-II, Mumbai (DRT), whereby it is recorded that a moratorium under Section 96 of the Insolvency and Bankruptcy Code, 2016 (IBC) is operating and that therefore, the DRT cannot pass any order in the matter. The said order is obviously inuring to the benefit of the respondents/borrowers.

2. It is submitted that the petition under Section 95 of the IBC was filed after the auction sale had been conducted and the sale

certificate was issued on 16th May 2024. Since the petition before the National Company Law Tribunal (NCLT) under the provisions of the IBC was filed much later, there was no question of the moratorium operating to the detriment of the petitioners. It is further brought to the notice of this Court that recently, by an order dated 6th February 2026, the petition before the NCLT itself has been dismissed. On this basis, it is submitted that impugned order deserves to be set aside.

3. The learned counsel for the petitioners in both the petitions have tendered affidavits of service. The same are taken on record in the respective petitions. Although, the petitioner in Writ Petition No. 13437 of 2025 claims that the contesting respondents/borrowers have been served by hand, we find that in Writ Petition No. 12492 of 2025 filed by the petitioner-bank, notices sent by courier are shown to be still in transit.

4. On the basis of the aforesaid submissions made on behalf of the petitioners, we do find that a strong case is made out for setting aside the impugned order of the DRT, but it would be appropriate that the respondents/borrowers are served before any effective order is passed in these writ petitions.

5. Hence, issue notice for final disposal, returnable on 30th April 2026, to be included in the category of fresh matters. In Writ Petition No. 13437 of 2025, Mr. Charles Desouza, learned counsel waives notice on behalf of respondent No.1-bank (secured creditor) and in Writ Petition No. 12492 of 2025, Ms. Sana Raees

Khan, learned counsel waives notice on behalf of respondent No.4 (auction purchaser). Humdast is granted for service of notice upon the other respondents in both the petitions.

6. Additionally, the petitioners are permitted to serve the respondents/borrowers in both the petitions by way of private service and to file an affidavit of service before the next date of listing.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)