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

WRIT PETITION NO. 15718 OF 2025

Anil Ankush Pawar and Anr.

...Petitioners

Versus

The Authorized Officer

Union Bank of India and Ors.

...Respondents

Mr. Shadab Jan i/b Mr. Parth P. Shah for the Petitioners.

Mr. Nainesh Amin (Through V.C.) a/w Ms. Priyam Amin i/b N.N. Amin and Co. for Respondent No.1.

Mr. Ronak Shah a/w Mr. Mohanish Satwilkar for Respondent Nos. 2 and 3.

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

DATE: 4th MARCH 2026

P.C.

1. Heard Learned Counsel for the parties. The Petitioners are auction purchasers who are aggrieved by an order dated 14th May 2025 passed by the Debts Recovery Appellate Tribunal, Mumbai (DRAT).

2. The Appeal before the DRAT has been filed by Respondent Nos. 2 and 3 (original borrowers). The Appeal challenges an order dated 8th April 2025 passed by the Debts Recovery Tribunal, Pune (DRT) whereby Miscellaneous Application filed by Respondent Nos.2 and 3 for condonation of delay in filing Securitization Application was dismissed.

3. In the Appeal filed by Respondent Nos. 2 and 3, they filed an Application seeking waiver of pre-deposit. Provisio to Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as "Securitisation Act")

mandates pre-deposit of 25% to 50% of the amount due as a pre-condition for entertaining an Appeal. The Respondent Nos. 2 and 3 also filed an Application for interim relief in the Appeal, apart from filing the aforesaid Application seeking waiver of pre-deposit.

4. The impugned order considered and disposed of only the Application for waiver for pre-deposit. The grievance of the Petitioners is that while hearing and disposing of the said Application, the DRAT not only directed the Respondent Nos. 2 and 3 to deposit 40% of the amount due towards pre-deposit, but without recording any reasons, the DRAT proceeded to grant an order restraining the Petitioners from creating third party interest or effecting change in revenue records with regard to ownership of the property from the date of deposit till the next date of hearing.

5. Learned Counsel for the Petitioners submits that such a direction could not have been issued in the impugned order, which dealt with only the Application seeking waiver of pre-deposit. It was submitted that the well known factors that are required to be considered for granting or refusing interim relief were not even discussed. An attempt was made to demonstrate how the Respondent Nos. 2 and 3 do not have any case even on merits in the pending Appeal. In any case, it was submitted that an Application for interim relief is still pending and by way of the impugned order the Respondent Nos.2 and 3 are enjoying interim relief, which could not have been granted.

6. Learned Counsel appearing for Respondent No.1 – Bank supported the contentions raised by the Learned Counsel for the Petitioners. It was submitted that DRAT could not have issued the interim direction in the impugned order.

7. Learned Counsel appearing for Respondent Nos. 2 and 3 (original borrowers) vehemently opposed the present Petition. He submitted that the interim direction in the impugned order was passed as far back on 14th May 2025. The same has been operating till date. Respondent Nos. 2 and 3 have not sought to adjourn the proceedings before the DRAT in any manner and now the proceedings are coming up on 2nd April 2026. It is submitted that in such circumstances, the Petitioners cannot rely upon the merits of the matter and seek to impress this Court to interfere with the impugned order. It is submitted that the protection granted to the Respondent Nos. 2 and 3 ought to continue at least till the next date of listing before the DRAT and that appropriate directions for time bound disposal of the pending Appeal and Application can be issued by this Court in the interest of justice.

8. We find on perusal of the impugned order that it suffers from a serious procedural infirmity. The Application considered and decided in the impugned order dated 14th May 2025 was only the Application seeking waiver of pre-deposit under Section 18 of the Securitisation Act. The only prayer made on behalf of Respondent Nos. 2 and 3 before the DRAT was for such waiver on the basis of statements made in the said Application. While considering the said Application the DRAT discussed the rival submissions, made certain observations and thereupon found that the Respondent Nos.2 and 3 were required to deposit 40% of the amount due and that complete waiver from pre-deposit was not warranted. Having reached the said conclusion the DRAT was expected to issue a positive direction to Respondent Nos.2 and 3 to deposit such 40% amount towards pre-deposit so that the Appeal could be registered and then take up the Application for interim relief and the Appeal for further consideration.

9. Instead, we find that after issuing such a positive direction to Respondent Nos.2 and 3 to deposit 40% of the amount due, failing which

the Appeal would stand rejected, in the next paragraph, without any discussion on the reasons for giving the blanket interim direction, it was observed as follows :

“On deposit of Rs.75,83,600/- on or before 21.5.2025, respondents are restrained from creating 3rd party interest effecting change in revenue records with regard to ownership of the property from the date of deposit till next date of hearing”.

10. We find that the aforesaid approach adopted by the DRAT suffers from serious procedural irregularity and infirmity. It appears that the DRAT proceeded on an assumption that the moment a pre-deposit direction was issued in an Application seeking waiver thereof, the interim relief would follow as a matter of course upon the amount so directed to be deposited, in fact being deposited by the Appellants (Respondent Nos.2 and 3 herein). We find that the approach of the DRAT is unsustainable.

11. It is undisputed that an Application for interim relief is still pending in the Appeal filed by Respondent Nos.2 and 3. All that the DRAT could have directed was that the moment such pre-deposit of 40% amount was made the Appeal would stand registered. As a matter of fact, in the subsequent order dated 28th May 2025 the DRAT issued a direction to number the Appeal, having taken note of the fact that Respondent Nos. 2 and 3 had indeed deposited 40% of the amount.

12. This further shows the error committed by the DRAT while casually granting such a blanket interim direction, to the prejudice of the Petitioners who are the auction purchasers. Only on this short ground we are inclined to interfere with the impugned order to the extent that the said interim direction needs to be set aside.

13. We are of the opinion that the DRAT should have considered the aspect of interim relief by hearing parties on the pending application for

interim relief filed by the Respondent Nos. 2 and 3. All the required parameters ought to be considered including the factors pertaining to prima facie case, balance of convenience and irreparable loss being suffered by the applicants, in the event interim reliefs are not granted. No such consideration is found in the impugned order and therefore, we are inclined to interfere to the limited extent indicated herein above.

14. We are restraining ourselves for not making any observations on the rival submissions made with regard to the merits of the matter. The said aspects are pending consideration before the DRAT in the Appeal as well as the Application for interim relief.

15. In view of the above, the above quoted direction issued against the Petitioners in the impugned order dated 14th May 2025 is quashed and set aside. Rest of the order shall remain as it is.

16. The DRAT is directed to take up the Application for interim relief filed by the Respondent Nos.2 and 3 on 2nd April 2026. At this stage we are informed that on the said date the Appeal and the Application for interim relief are due to be listed before the Registrar, DRAT. We direct that the DRAT shall take up the Appeal alongwith the Application for interim relief on the said date, i.e., on 2nd April 2026. The Petitioners as well as Respondent No.1 - Bank are directed to file their reply affidavits in the said Application for interim relief before 2nd April 2026 with advance copies being served upon Respondent Nos. 2 and 3.

17. The DRAT shall make an endeavour to decide the said Application for interim relief on 2nd April 2026 itself or atleast within two weeks thereafter.

18. It is made clear that this Court has not expressed its opinion on the merits of the contentions of the rival parties and that the impugned

order has been interfered with in the aforesaid manner, only on the ground of serious procedural infirmity found in the impugned order.

19. Writ Petition is disposed of in above terms.

20. Pending Applications, if any, also stands disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)