IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11848 OF 2025

| | | |
|---|---|---|
| Union Bank of India | … | Petitioner |
| **Vs.** | | |
| Indus Mechanical Eng. Co. Pvt. Ltd. and another | … | Respondents |

WITH

INTERIM APPLICATION (ST.) NO.20162 OF 2025

IN

WRIT PETITION NO.11848 OF 2025

| | | |
|---|---|---|
| K. P. Ridge Pvt. Ltd. | … | Applicant |
| **In the matter between:** | | |
| Union Bank of India | … | Petitioner |
| **Vs.** | | |
| Indus Mechanical Eng. Co. Pvt. Ltd. and another | … | Respondents |

WITH

WRIT PETITION NO.17555 OF 2025

| | | |
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| Juana Sanjeev Uppal | … | Petitioner |
| **Vs.** | | |
| Indus Mechanical Eng. Co. Pvt. Ltd. and another | … | Respondents |

WITH

INTERIM APPLICATION NO.491 OF 2026

IN

WRIT PETITION NO.17555 OF 2025

| | | |
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| K. P. Ridge Pvt. Ltd. through its Director | … | Applicant |
| **In the matter between:** | | |
| Juana Sanjeev Uppal | … | Petitioner |
| **Vs.** | | |
| Indus Mechanical Eng. Co. Pvt. Ltd. and another | … | Respondents |

WITH

WRIT PETITION NO.12930 OF 2025

| | | |
|---|---|---|
| K. P. Ridge Pvt. Ltd. through its Director | … | Petitioner |
| **Vs.** | | |
| Union Bank of India and others | … | Respondents |

WITH
WRIT PETITION NO.16755 OF 2025

K. P. Ridge Pvt. Ltd. through its Director … Petitioner
**Vs.**
Union Bank of India and others … Respondents

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Mr. Girish Godbole, Senior Advocate with Mr. Rishabh Shah, Mr. Anuj Jhaveri and Mr. Ritik Sinha i/b. Mr. Anuj Jhaveri for Petitioner in WP/12930/2025 and WP/16755/2025.

Mr. Ravi Kadam, Senior Advocate a/w. Mr. Ashish Mehta, Mr.Vaibhav Bhure a/w. Ms. Khushi Rawloni and Ms. Mahima Sharma i/b. Mr. Ramiz Shaikh for Petitioner (Auction Purchaser) in WP/17555/2025.

Dr. Birendra Saraf, Senior Advocate a/w. Ms. Malaika C., Mr.Charles Desouza a/w. Mr. Rupak Sawangikar and Mr. Roshan Gaud i/b. Orbit Law Services for Union Bank of India in all Petitions i.e. for Petitioner in WP/11848/2025, for Respondent No.1 in WP/12930/2025 and WP/16755/2025 and for Respondent No.2 in WP/17555/2025.

Mr. Yeshwant Shenoy a/w. Ms. Pooja Singh for Respondent No.1 in WP/17555/2025 and WP/11848/2025 and for Respondent Nos.3 and 6 in WP/12930/2025 and WP/16755/2025.

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

**P.C.** :

. There are four writ petitions for consideration. Writ Petition No.11848 of 2025 is filed by Union Bank of India (secured creditor). Writ Petition No.17555 of 2025 is filed by the auction purchaser.

2. Writ Petition Nos.12930 of 2025 and 16755 of 2025 are filed by K. P. Ridge Pvt. Ltd., claiming to be owner of the land, which is subject matter of the proceedings. The said petitioner is aggrieved by its intervention application being rejected by the Debts Recovery Appellate Tribunal (DRAT) by the impugned order and the other writ petition has been filed by the said petitioner for direction to the Debt Recovery

Tribunal (DRT) to consider Transfer Securitisation Application (TSA) No.151 of 202 filed by the said petitioner and to dispose of the same expeditiously.

3. We have considered the rival submissions and since we find that the impugned orders passed by the DRAT and the DRT are required to be set aside and the matter needs to be remanded to the DRT, on a short point, detailed reference to the chronology of events is not necessary.

4. We find that both, the DRT as well as the DRAT completely missed the point that goes to the root of the matter to the effect that the DRT could not have granted relief of setting aside a sale certificate issued in favour of the petitioner (auction purchaser) in an interim application without any substantive pleadings and prayer in the main proceeding i.e. the pending Securitisation Application No.92 of 2021. We find that this is a glaring error, particularly when specific allegations of fraud have not been made by the respondent borrower i.e. the applicant in the said securitisation application. In the absence of any pleadings in the securitisation application and there being no substantive prayer in the securitisation application for setting aside the sale certificate issued in favour of the auction purchaser, the DRT proceeded to set aside the sale certificate on the basis of prayers made only in an interim application. This is a glaring irregularity and the approach adopted by the DRT is clearly in the teeth of the settled position of law laid down by the Supreme Court in a number of judgements.

5. The petitioner bank (secured creditor) was constrained to invoke the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Securitisation Act') against the respondent borrower in the light of its default in repayment of loan and credit facilities. It is undisputed that the petitioner bank proceeded to conduct auctions as many as on six

occasions in respect of the secured assets to recover the amount due. All the six attempts failed as there were no bidders. When the seventh attempt was made in the form of a sale notice dated 11.04.2023, it led to the present controversy. The sale as per the auction sale notice dated 11.04.2023 was fixed for 11.05.2023. In the light of the said sale notice, the respondent borrower filed Interim Application No.1957 of 2023 in the pending securitisation application for setting aside the sale notice and also praying for interim reliefs. On 11.05.2023, the said interim application was taken up for consideration. As per the sale notice, the auction was to be conducted between 11:00 a.m. and 01.00 p.m. on 11.05.2023.

6. When the application was taken up for consideration at about 11:15 a.m., the petitioner bank informed the DRT that no bids were received till then and hence the proceeding was kept back awaiting the result of the auction. It appears that the interim application was again called out at 12:15 p.m., when the counsel for the petitioner bank was absent and in the light of the position informed to the DRT at about 11:15 a.m. in the morning that no bids were received, the DRT proceeded to dismiss the interim application of the respondent borrower as infructuous.

7. It is the case of the petitioner auction purchaser that it submitted its online bid at 12:50 p.m., which was accepted and follow-up action was taken, resulting in issuance and registration of the sale certificate on the very same day.

8. The petitioner bank claims that its counsel had approached the DRT to inform the subsequent events, but the board had been discharged by DRT. It is in this backdrop that the borrower filed Interim Application No.2666 of 2023 in the aforesaid pending Securitisation Application No.92 of 2021, wherein the following prayers were made:-

> “a. This Hon’ble Tribunal may be pleased to allow the instant I.A. for cancellation of the Sale certificate dated 11-05-2023 bearing Registration No.6553/2023 dated 12-05-2023, executed between the Respondent No.1 and Respondent No.2 with respect to the said property-Duplex Bungalow at 27, Juhu Tara Road, Jitendra Lane, Santacruz (W) Mumbai – 400054 till the disposal of the above IA.
>
> b. This Hon’ble Tribunal may be pleased to grant injunction restraining the Respondent No.2 from creating any third party right over the said property -Duplex Bungalow at 27, Juhu Tara Road, Jitendra Lane, Santacruz (W) Mumbai – 400054 till the disposal of the above IA.
>
> c. To initiate contempt proceeding against the Authorized officer and other concerned officers of the Respondent No.1 bank for committing fraud upon this Hon’ble Tribunal.
>
> d. For ad-interim orders in terms of prayer clauses (a) to (b) above.
>
> e. Any other other as this Hon’ble Court deem fit in the interest of justice.”

9. The petitioner bank and the petitioner auction purchaser opposed the said application. The DRT, by its order dated 12.10.2023, allowed the application and set aside the auction sale conducted on 11.05.2023 with all consequences thereof.

10. The petitioner bank as well as the petitioner auction purchaser filed appeals before the DRAT challenging the said order, *inter alia*, on the ground that such reliefs could not have been granted in the absence of any pleading or prayer in the substantive proceeding i.e. Securitisation Application No.92 of 2021.

11. By the impugned order dated 10.03.2025, the DRAT dismissed the appeals and confirmed the order of the DRT. It was held that the petitioner auction purchaser was entitled for refund of sale consideration with interest rate as applicable to fixed deposits and the bank was directed to conduct a fresh auction. The interim applications filed by the petitioner K. P. Ridge Pvt. Ltd. in the said appeals were dismissed with

liberty to agitate the issues raised therein before the DRT in Transfer Securitisation Application (TSA) No.151 of 2023. It is relevant to note that although the impugned order of the DRAT runs into several paragraphs and pages, there is no discussion in the said order with regard to the aforesaid point indicated by this Court, which goes to the very root of the matter.

12. Mr. Ravi Kadam, learned senior counsel appearing for the petitioner auction purchaser and Dr. Saraf, learned senior counsel appearing for the petitioner Union Bank of India submitted that this Court may consider allowing the petitions on the short ground noted hereinabove. It was submitted that in the absence of any substantive pleadings and prayers in Securitisation Application No.92 of 2021, the DRT could not have considered the serious allegations of fraud while virtually granting final relief in the interim application. It was submitted that the said approach adopted by the DRT was in the teeth of the settled position of law as recognized by the Supreme Court in the case of *Cotton Corporation of India Limited Vs. United Industrial Bank Limited and others*, **(1983) 4 SCC 625** and *State of Orissa Vs. Madan Gopal Rungta*, **AIR 1952 SC 12**. It was submitted that only after such substantive pleadings and prayers were incorporated in the said securitisation application, that the DRT could have considered the prayers made in that regard.

13. It was specifically pointed out that before the aforesaid interim application of the borrower was taken up for consideration, Securitisation Application No.92 of 2021 came up for consideration before the DRT on 19.06.2023, where this very submission was advanced. The DRT had specifically recorded that the issue regarding the last date and time of receiving the bids would be kept open, to be agitated by the parties during the final hearing of the securitisation

application and it was further recorded that all issues were kept open.

14. On this basis, it was submitted that the DRT committed a serious jurisdictional error and a procedural irregularity in considering prayers made in the interim application filed by the borrower for setting aside the sale certificate in the absence of any substantive pleadings in the main proceeding i.e. Securitisation Application No.92 of 2021. It was submitted that if this Court were to agree with the aforesaid petitioners, orders passed by DRT and DRAT deserve to be set aside and the matter can be placed before the DRT for consideration of the said securitisation application in accordance with law. It was submitted that DRAT completely missed the aforesaid point, while confirming the order passed by the DRT.

15. Mr. Godbole, learned senior counsel appearing for the petitioner K. P. Ridge Pvt. Ltd. submitted that the DRAT ought not to have dismissed its applications for impleadment, for the reason that the said petitioner claims to be owner of the land in respect of which, the petitioner bank i.e. secured creditor proceeded under the provisions of the Securitisation Act. It is the case of the said petitioner that only the structure was given to the borrower and not the land underneath, and therefore, the said petitioner has a vital interest in the proceedings. It was submitted that since the said petitioner had already filed its securitisation application before the DRT, the impleadment application ought to have been allowed. It was brought to our notice that in these writ petitions also intervention applications have been filed by the said petitioner.

16. It was further submitted that since fraud vitiates everything and the DRT as well the DRAT found sufficient material demonstrating fraud committed by the petitioner bank as well as the petitioner auction purchaser, this Court may not interfere with the impugned orders.

17. Mr. Shenoy, learned counsel appearing for the respondent borrower in these petitions vehemently submitted that the findings rendered by the DRT and confirmed by the DRAT show the blatant fraud committed by the auction purchaser and the bank, not only on the borrower but also on the DRT, for the manner in which the auction was conducted on 11.05.2023. It was submitted that the DRT was deliberately kept in dark about the fact that the auction purchaser intended to submit its bid and also about the sole bid of the auction purchaser being accepted. It was submitted that the DRT as well as the DRAT specifically referred to the chronology of events of the crucial date i.e. 11.05.2023 to reach findings that are unassailable and therefore, this Court may not interfere with the impugned orders.

18. We have considered the rival submissions. We find that the position of law upon which the petitioner bank and the petitioner auction purchaser rely, clearly lays down that interim relief can be granted only in aid of and as ancillary to the main relief, which may be available to the party on final determination of its rights in a suit or proceeding. The said position of law has been laid down by the Supreme Court in its judgement in the case of **State of Orissa Vs. Madan Gopal Rungta** (*supra*), rendered as far back as in the year 1951 and followed subsequently in a number of judgements. In the case of **Cotton Corporation of India Limited Vs. United Industrial Bank Limited and others** *(supra)*, the Supreme Court reiterated the same by observing as follows:-

> "10. Mr Sen, learned counsel for the respondent Bank, contended that Section 41(*b*) *is* not at all attracted because it deals with perpetual injunction and the temporary or interim injunction is regulated by the Code of Civil Procedure specially so provided in Section 37 of the Act. Expression 'injunction' in Section 41(*b*) is not qualified by an adjective and therefore, it would comprehend both interim and perpetual injunction. It is, however, true that Section 37 specifically provides that temporary injunctions which have to continue until a specified

time or until further order of the court are regulated by the Code of Civil Procedure. But if a dichotomy is introduced by confining Section 41 to perpetual injunction only and Section 37 read with Order 39 of the Code of Civil Procedure being confined to temporary injunction, an unnecessary grey area will develop. It is indisputable that temporary injunction is granted during the pendency of the proceeding so that while granting final relief the court is not faced with a situation that the relief becomes infructuous or that during the pendency of the proceeding an unfair advantage is not taken by the party in default or against whom temporary injunction is sought. But power to grant temporary injunction was conferred in aid or as auxiliary to the final relief that may be granted. If the final relief cannot be granted in terms as prayed for, temporary relief in the same terms can hardly if ever be granted. In *State of Orissa* v. *Madan Gopal Rungta* [1951 SCC 1024 : AIR 1952 SC 12 : 1952 SCR 28 : 1951 SCJ 764] a Constitution Bench of this Court clearly spelt out the contours within which interim relief can be granted. The Court said that 'an interim relief can be granted only in aid of, and as ancillary to, the main relief which may be available to the party on final determination of his rights in a suit or proceeding'. If this be the purpose to achieve which power to grant temporary relief is conferred, it is inconceivable that where the final relief cannot be granted in the terms sought for because the statute bars granting such a relief ipso facto the temporary relief of the same nature cannot be granted. To illustrate this point, let us take the relief which the Bank seeks in its suit. The prayer is that the Corporation be restrained by an injunction of the court from presenting a winding up petition under the Companies Act, 1956 or under the Banking Regulation Act, 1949. In other words, the Bank seeks to restrain the Corporation by an injunction of the court from instituting a proceeding for winding up of the Bank. There is a clear bar in Section 41(*b*) against granting this relief. The court has no jurisdiction to grant a perpetual injunction restraining a person from instituting a proceeding in a court not subordinate to it, as a relief, ipso facto temporary relief cannot be granted in the same terms The interim relief can obviously be not granted also because the object behind granting interim relief is to maintain status quo ante so that the final relief can be appropriately moulded without the party's position being altered during the pendency of the proceedings."

19. We are conscious that in the said case, the Court was concerned with a situation where the main relief could not have been granted. But,

if the party seeking interim relief has not sought such relief in the main proceeding and granting such relief amounts to final relief at interim stage, even in absence of any pleadings and prayer in the main proceeding, the said position of law equally inures to the benefit of the petitioners - Bank and auction purchaser in this case. There is no main relief in the present case and therefore, no question of granting such relief at interim stage. The said position of law makes it abundantly clear that unless the main relief is claimed and is available to a party, interim relief cannot be granted in a proceeding and that too when it virtually amounts to granting final relief. In the present case, the pending Securitisation Application No.92 of 2021 was admittedly not amended and as a matter of fact, the respondent borrower had not filed any application for amendment of the securitisation application to substantively challenge the sale certificate issued in favour of the auction purchaser. This is an admitted position on facts. We find that the respondent borrower pursued its case of alleged fraud only on the basis of contents of Interim Application No.2666 of 2023 filed in the said securitisation application. The prayer clause in the said application, quoted hereinabove, also shows that even while seeking cancellation of the sale certificate dated 11.05.2023, the same was prayed for only till '*disposal of the interim application*'. It is difficult to understand how such a prayer could have been entertained by the DRT, which virtually amounted to granting final relief even during pendency of the interim application and in the absence of any pleadings in the main proceeding i.e. Securitisation Application No.92 of 2021 for setting aside of the sale certificate.

20. We find that the ground on which respondent borrower sought setting aside of sale certificate was fraud, which is indeed a serious matter and it requires specific pleadings to be placed on record. The record shows that there was no such pleading in Securitisation

Application No.92 of 2021 and the respondent borrower did not even make an attempt to amend the aforesaid securitisation application to place on record such pleadings and substantive prayers.

21. Despite this admitted position on facts, the DRT not only entertained the application, but proceeded to grant relief to the respondent borrower of setting aside the sale certificate on the purported ground of fraud. We are of the opinion that the said approach adopted by the DRT was in the teeth of the settled position of law, noted hereinabove. As a matter of fact, as per law laid down by the Supreme Court in the case of *East India Commercial Company Limited Vs. Collector of Customs, Calcutta*, **AIR 1962 SC 1893**, such finding given in the teeth of settled position of law renders the order of an authority, court or tribunal as without jurisdiction. We also find that this cannot merely be termed as a procedural irregularity but a substantive error committed by the DRT while passing the said order. The erroneous approach of the DRT is compounded by the fact that in its earlier order dated 19.06.2023, it had specifically kept all issues open, including the aforesaid specific issue to that effect being raised on behalf of the petitioner bank.

22. The DRAT also completely failed to appreciate the said aspect of the matter. In its order running into several paragraphs and pages discussing the concept of fraud and how such a case of fraud was allegedly made out in the facts of the present case, there was no reference made to the specific ground taken on behalf of the petitioners i.e. the bank and the auction purchaser with regard to the said position of law clarified by the Supreme Court in the case of **Cotton Corporation of India Limited Vs. United Industrial Bank Limited and others** *(supra)*. It is brought to our notice that even in the written submissions before the DRAT, the said specific ground was taken. Instead, the DRAT simply observed that any act, including judicial act, could be challenged

in any Court at any time and even in collateral proceedings and once the fraud is unravelled, the consequential orders have to follow. Surprisingly, the DRAT returned a finding that in view of the said position, fraud would be undone even in the order passed in an interlocutory application, completely ignoring the fact that there was no prayer, much less any pleading in the main proceeding i.e. Securitisation Application No.92 of 2021.

23. We find that the aforesaid approach of the DRAT was completely erroneous, for the reason that fraud, concerning serious allegations and counter allegations made by parties against each other, needs to be pleaded substantively in the main proceedings, in this case, the securitisation application, before the Court or tribunal can take up the issue for consideration. In the absence of any such substantive pleadings and there being no prayer for setting aside the sale certificate on the ground of fraud in the securitisation application, the DRT could not have proceeded to pass the aforesaid order and the DRAT erred in confirming the same. On this short ground, we are inclined to allow the writ petitions filed by the petitioner bank and the petitioner auction purchaser.

24. As regards Writ Petition No.16755 of 2025 filed by K. P. Ridge Pvt. Ltd., we find that since we are setting aside the impugned orders and the said entity has already filed its substantive securitisation application before the DRT, no orders are necessary on the said writ petition and it can be disposed of. Writ Petition No.12930 of 2025 is filed by K. P. Ridge Pvt. Ltd. for a direction to the DRT to consider its securitisation application expeditiously. The said direction can be issued as we intend to issue consequential directions to the DRT.

25. In view of the above, Writ Petition Nos.11848 of 2025 and 17555 of 2025 are allowed. The impugned order dated 10.03.2025 passed by

the DRAT is quashed and set aside. The order dated 12.10.2023 passed by the DRT in Interim Application No.2666 of 2023 in Securitisation Application No.92 of 2021 is also quashed and set aside. The respondent borrower and the petitioner K. P. Ridge Pvt. Ltd. are at liberty to pursue their pending securitisation applications before the DRT.

26. The DRT is directed to take up the said applications i.e. Securitisation Application No.92 of 2021 and Transfer Securitisation Application (TSA) No.151 of 2025 for consideration at the earliest and it shall make an endeavor to dispose of the same on their own merits, expeditiously and preferably within three months of this order being placed before the DRT. In view of the above, Writ Petition Nos.16755 of 2025 and 12930 of 2025 are also disposed of.

27. At this stage, the learned counsel for the respondent borrower submitted that the said respondent intends to approach the DRT for amending the pending Securitisation Application No.92 of 2021. The respondent borrower is at liberty to do so. This Court has not expressed any opinion on the said matter and rights and contentions of all parties in that regard are kept open.

28. The learned counsel for the respondent borrower prayed for stay of the order of this Court for a period of four weeks.

29. In the light of the reasons recorded hereinabove, we are not inclined to grant the aforesaid prayer and hence, the prayer is rejected.

30. It is clarified that all issues are kept open, to be decided by the DRT on their own merits.

31. All pending interim applications are disposed of.

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