

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 98 OF 2025
WITH
INTERIM APPLICATION NO.1692 OF 2025

M/s. Tuffware Industries and Ors.

.. Appellants

Versus

Reliance Asset Reconstruction Company Limited
and Anr.

.. Respondents

.....

- Mr. Nitin Thakker, a/w. Ms. Prashana Agrawal, Mr. Harshad Sathe and Mr. Pranil Vichare, Advocates for Appellants.
- Mr. Aayush Kothari, a/w. Mr. Nikhil Rajani i/b. Ms. V. Deshmukh, for Respondent No.1.
- Mr. Vivek Patil i/b. Vivek Patil and Associates, Advocates for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 24, 2026.

P.C.:

1. Heard Mr. Thakker, learned Advocate for Appellants, Mr. Kothari, learned Advocate for Respondent No.1 and Mr. Patil, learned Advocate for Respondent No.2

2. Briefly stated, present Appellants filed Suit No. 6243 of 2024 seeking declaration that Deed of Assignment dated 28.03.2018 executed between Respondent No.1 and Respondent No.2 is void - ab - initio and contrary to law. Appellants filed Notice of Motion No. 4214 of 2024 *inter alia* seeking to restrain Defendants from taking any steps on the basis of Deed of Assignment dated 28.03.2018. For the sake of convenience, parties shall be referred to as "Plaintiffs" and

"Defendants".

3. Present Appeal from Order challenges Order dated 19.10.2024 passed by Bombay City Civil Court (for short "**Trial Court**") dismissing Notice of Motion No.4214 of 2024 in Suit No.6243 of 2024, preferred by Appellants herein.

4. Mr. Thakker, learned Advocate for Plaintiffs would submit that as far as interim reliefs qua measures undertaken under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "**SARFAESI Act**") are concerned, Appellants will file appropriate proceedings in the Debts Recovery Tribunal for grant of desired reliefs. He would persuade the Court to direct Debts Recovery Tribunal to decide such Application/s, if filed, without being influenced by the observations made in the impugned Order dated 19.10.2024 passed by the Trial Court and the Application/s may be disposed of within a period of two months from the date of their filing.

5. He would submit that Suit challenges Deed of Assignment dated 28.03.2018 which cannot be challenged in Application under Section 17 of the SARFAESI Act, hence this issue will have to be decided by the Trial Court.

6. Considering the *lis* between the parties and on expressing my mind not to interfere with the impugned order, both parties requested

me to pass appropriate orders for expeditious disposal of the Suit regarding challenge to the Deed of Assignment dated 28.03.2018.

7. After hearing the learned Advocates at the bar and perusing the draft issues submitted by both the parties, it is directed that the following issues are framed in the Suit for adjudication by the consent of both parties: -

- (i) Whether Plaintiffs prove that the suit is not required to be stayed despite moratorium applicable under Section 96(1)(a) of Insolvency and Bankruptcy Code, 2016?
- (ii) Whether Defendants prove that the Suit requires to be stayed in view of the moratorium under Section 96(1)(a) of the Insolvency and Bankruptcy Code, 2016?
- (iii) Whether Plaintiffs prove that the Suit is filed within the period of limitation prescribed under Limitation Act, 1963?
- (iv) Whether Defendants prove that the Suit is barred by the law of limitation?
- (v) Whether Defendant No. 1 proves that present Suit is not maintainable as the same is barred by provisions of SARFAESI Act and Plaintiffs have prayed for similar relief in the Securitisation Application No. 177 of 2024 filed under Section 17 of SARAFESI Act filed before the Debts Recovery Tribunal?

- (vi) Whether Defendants prove that the Suit is barred and not maintainable under Section 34 of the SARFAESI Act?
- (vii) Whether Plaintiffs prove that they have locus to challenge Deed of Assignment dated 28.03.2018 executed between Defendant Nos. 1 and 2?
- (viii) Whether Plaintiffs prove that the Deed of Assignment dated 28.03.2018 executed between Defendants is contrary to Reserve Bank of India circulars dated 06.12.2019 and 19.03.2014 and / or its subsidiaries and as such is void – ab initio and unenforceable?
- (ix) Whether Plaintiffs prove that Defendant No.2 was not a "financial institution" as per Section 5(2)(m) of SARFAESI Act at the time of executing the Deed of Assignment dated 28.03.2018?
- (x) Whether Plaintiffs prove that Defendant No.2 is a group Company of Defendant No.1 and a wholly owned subsidiary and/or group Company of the principal sponsor of Defendant No.1?
- (xi) Whether Plaintiffs prove that the representations/warranties given by Defendant No.2 to Defendant No.1 in the Deed of Assignment dated 28.03.2018 were false, improper and

incorrect in its entirety?

(xii) What order?; and

(xiii) What decree?

8. Keeping all rights and contentions of both the parties expressly open, and liberty to apply for any addition / deletion / recasting of issues to the Trial Court. The Trial Court shall decide the Suit without being influenced by any of the observations in the present Order as well as the Impugned Order dated 19.10.2024 while determining the *lis* between the parties. The Trial Court is directed to expedite the hearing of Suit No.6423 of 2024 and in any event determine the same preferably within a period of six (6) months from today.

9. In view of the above specific issues framed by this Court which would be subject to trial and as agreed upon by the parties, Writ Petition (L) No. 35418 of 2024 filed by Defendant No.1 challenging rejection of the order dated 21.10.2024 in Application filed under Order VII Rule XI on the ground that the Suit is barred under Section 34 of the SARFAESI Act shall stand withdrawn keeping all contentions of the parties expressly open.

10. Appeal from Order and pending Interim Application stand disposed of.

[MILIND N. JADHAV, J.]

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by AJAY
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Corrected / modified order as per speaking to minutes of order dated 15.04.2026

5 of 5