

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 597 OF 2025

M/s. Airavat Industries & Anr.

.. Appellants

Versus

The Board of Directors of Bank of Maharashtra
& Ors.

.. Respondents

.....

- Mr. Mathews Nedumpara a/w Ms. Hemali Merva / Kurne i/by M/s. Nedumpara & Nedumpara, Advocates for Appellants
- Mr. Sanjay Anabhawane, Advocate for Respondent Nos. 1 to 3
- Mr. Y.Y. Dabke, AGP for Respondent Nos. 7 to 9

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 24, 2026

P. C.:

1. Heard Mr. Nedumpara, learned Advocate for Appellants; Mr. Anabhawane, learned Advocate for Respondent Nos. 1 to 3 and Mr. Dabke, learned AGP for Respondent Nos. 7 to 9.

2. For the sake of convenience, parties shall be referred to in terms of their status before the Trial Court i.e., Appellants as the Plaintiffs and Respondents as the Defendants.

3. The order which is assailed in the present Appeal from Order is dated 14.10.2025 (appended at Exh. A, page No. 11 of the AO). By virtue of the said order, leave to exempt issuance of notice under Section 80(2) of the Civil Procedure Code, 1908 (for short “CPC”) has been denied on the ground that Advocate for Plaintiffs has failed to

satisfy the Court as to why it was not in a position to give prior notices to the concerned authorities before filing of the Suit. There are no other reasons rather exceptional reasons stated in the said order for rejection.

4. Mr. Nedumpara informs the Court that there is grave apprehension that Respondent Bank duly represented by Mr. Anabhawane may take possession of one of the secured assets i.e. residential house being Flat No. 1201 situated in Bhoomi Heights CHS Ltd., Kamothe, Taluka Panvel, Dist. Raigad belonging to Plaintiff No. 1 which is occupied by its partner i.e. Plaintiff No. 2.

5. One of the fact which *prima facie* persuades the Court to dispense with issuance of notice under Section 80(2) is that Plaintiff No. 1 is a MSME (Micro, Small & Medium Enterprises). This Court is refraining from expressing any opinion on merits of the matter and leaves it to the parties to argue the same by keeping all their contentions expressly open before the Trial Court strictly in accordance with law.

6. Mr. Anabhawane makes a statement that Bank is not intending to take any coercive action or steps for the moment in regard to the above secured asset. The statement is noted. In that view of the matter, Plaintiffs will be at liberty to move the learned Trial Court and

obtain appropriate reliefs in accordance with law. For a period of four weeks from today, no coercive steps shall be taken to enable the Plaintiffs to make the appropriate Application for injunction. In view of the facts mentioned in the AO which *prima facie* are not denied on the basis of documents appended to the AO, the requirement for issuing notice under Section 80(2) of the CPC stands dispensed with.

7. Order dated 14.10.2025 therefore stands quashed and set aside with the above liberty to the Plaintiffs. Needless to state that all contentions of both the parties on merits are expressly kept open without this Court giving any imprimatur on merits.

8. Appeal from Order is disposed. Pending Interim Application, if any, is also disposed.

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2026.03.24
18:56:32
+0530