

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 625 OF 2025

Shyam Kabadkar

Appellant

.. (Org. Plaintiff)

Versus

Canara Bank & Ors.

Respondents

.. (Org. Defendants)

.....

- Mr. Pradyumna Sharma a/w Mr. Amardeep Bhattacharya & Ms. N.N. Jain, Advocates for Appellant
- Ms. Fatima Lakdawala, Advocate for Respondent Nos. 1, 8 & 9

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 17, 2026

P. C.:

1. Heard Mr. Sharma, learned Advocate for Appellant - Org. Plaintiff and Ms. Lakdawala, learned Advocate for Respondent Nos. 1, 8 & 9 - Org. Defendants.

2. Matter was fixed today on the Supplementary Board in view of the urgency expressed by Mr. Sharma that possession of the subject property was slated to be taken by Defendant No. 1 - Bank.

3. Ms. Lakdawala, learned Advocate appearing for Defendant No. 1 - Bank informs the Court that possession was not taken yesterday due to unavailability of police protection. She would submit that as and when future steps are taken, appropriate notice shall be given to Plaintiff who is Appellant before me. That apart, she informs the

Court that simultaneously Plaintiff who is the co-borrower and guarantor has filed Statutory Application before the DRT and is prosecuting the same and therefore in view of the provisions of Section 34 of the SARFAESI Act, Civil Court has refused the ad-interim relief. She would submit that Civil Court has no jurisdiction even if it is so opined by the learned Trial Court. Be that as it may, presently there is no need or any urgency in the matter to be heard forthwith.

4. At this stage Mr. Sharma makes a request to the Court that since the impugned order in the present Appeal from Order is an ad-interim order, directions be given to decide the Notice of Motion finally in a time bound manner. He would submit that there is apparent fraud element because of which Plaintiff has been compelled to file the Civil Suit. Be that as it may, pending Notice of Motion is directed to be decided and disposed of strictly in accordance with law as expeditiously as possible within a period of eight weeks from today. All contentions of Defendant No. 1 Bank and Plaintiff are expressly kept open. The impugned order which is an ad-interim order is stayed until the Notice of Motion is decided finally.

5. Mr. Sharma would submit that appropriate directions be passed in the interim not to take any coercive steps in respect of possession of the subject property for the following two reasons. Firstly he would submit that two children of the Plaintiff aged about 12 and 21 years

are required to appear for their annual academic examinations. He would submit that the elder child is appearing and preparing for Company Secretary examination slated in June 2026 whereas the younger child is required to give his school examination. He has placed the examination timetable before me. In that view of the matter, he would submit that if any coercive steps are taken, it would drastically affect the children and also affect their psychology to appear for the academic examinations. Secondly he would submit that there is a FIR which has been lodged against the officials of the Bank, *inter alia*, with respect to the suit transaction itself citing their complicity and collusion and committing a fraud. Hence he would submit that the Court be considerate enough to pass appropriate directions.

6. *Per contra*, Ms. Lakdawala would vehemently oppose the request made by Mr. Sharma. She would submit that substantial recovery of more than Rs. 5 Crores is pending and is to be recovered. That apart the bank official who is handling the matter as also the concerned Branch are required to finalize their year ending accounts for which they have to take appropriate steps for recovery. Hence she would submit that in the interregnum no protection whatsoever be granted to the Plaintiff and the Bank be allowed to take steps in accordance with law.

7. I have considered the rival submissions as also the request made by Mr. Sharma. Without giving any imprimatur on merits of the matter, I direct Defendant No. 1 Bank not to take any coercive steps without giving at least 15 days advance notice to the Plaintiff of any purported action to be taken so as to enable the Plaintiff to take steps available to him in accordance with law.
8. Needless to state that this Court has not expressed any opinion on merits of the matter and this order is passed only after considering the request made by Mr. Sharma.
9. Copy of this order shall be placed before the learned City Civil Court tomorrow i.e. on 18.02.2026 at 11.00 a.m. to enable it to determine hearing of the Notice of Motion as per its convenience.
10. With the above directions, Appeal from Order is disposed.

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2026.02.17
15:10:38 +0530