

Shabnoor

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

WRIT PETITION NO.8587 OF 2019

Nitin Jalinder Waghmare ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.38666 OF 2025
IN
WRIT PETITION NO.8587 OF 2019**

Nitin Jalinder Waghmare ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Sahil Choudhary, for the Applicant/Petitioner.

Ms. Sulbha Chipade, AGP, for the State – Respondent
Nos.1 to 3.

Mr. Harshad A. Sathe i/b Pranil Vikhare, for
Respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 10, 2026

P.C.:

INTERIM APPLICATION NO.38666 OF 2025

1. For the reasons stated in the application, the same is allowed.
2. The writ petition is restored.
3. The interim application stands disposed of.

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4. The petition challenges the order passed by the Revisional Authority arising out of a claim raised by the guarantor, contending that without initiating proceedings for recovery of the amount against the borrower, the property of the guarantor has been attached.

5. Moreover, it is further contended by the petitioner that the property in question is already mortgaged with another bank and, therefore, could not have been attached.

6. Insofar as the first objection raised by the petitioner is concerned, it is well settled that it is the choice of the creditor as to whom it seeks to proceed against. The liability of the borrower and the guarantor is co-extensive, and if the creditor recovers the amount from the guarantor, the guarantor is entitled to recover the same from the borrower.

7. As regards the contention that the property is mortgaged with another bank, the rights of the mortgagee may be affected, and it shall be open for the bank to raise such an objection if the property is already mortgaged. However, the mortgagor himself cannot raise such an objection. Therefore, in my opinion, the objection raised by the petitioner has no substance. The Revisional Authority has rightly refused to accept the objection. Hence, no interference is called for.

8. The petition stands dismissed. No costs.

(AMIT BORKAR, J.)