IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.743 OF 2026

Parshav Infotech represented by its Partner
Niranjan Parekh … Petitioner
Vs.
Anand Rathi Global Finance Limited and others … Respondents

Mr. Ramesh a/w. Mr. Acharya Vijay Anand for Petitioner.
Mr. R. L. Motwani for Respondent No.1.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
DATE : JANUARY 16, 2026

P.C. :

. Heard learned counsel for the parties.

2. This petition is circulated for today due to grave urgency projected on behalf of the petitioner. It is brought to our notice that as per e-auction sale notice dated 30.12.2025, the subject immovable property is to be put to auction sale by the contesting respondent No.1 on 19.01.2026.

3. The learned counsel for the petitioner has tendered an affidavit of service along with documents, which show that copies of the petition were served upon respondent Nos.1 and 2 by hand delivery as well as by e-mail. The said affidavit of service is taken on record.

4. The contesting respondent No.1 has appeared through counsel, while there is no appearance on behalf of the respondent No.2.

5. Respondent No.3 is the Debts Recovery Tribunal (DRT) and it being a formal party, service of notice upon respondent No.3 is

dispensed with.

6. The learned counsel for the petitioner submits that in the facts and circumstances of the present case, the aforesaid e-auction sale notice, in pursuance of which the auction sale is fixed on 19.01.2026, deserves to be set aside so that a fair opportunity is available to the petitioner to pursue its application for restoration of securitization application before the DRT-3, Mumbai. We are informed that DRT-1 is in-charge of hearing applications pending before DRT-3.

7. It is brought to our notice that the petitioner and respondent No.2 had executed deed of assignment of a *gala* / unit, whereby the subject immovable property was assigned to the respondent No.2 and possession thereof was handed over to the said respondent by the petitioner. As per the said registered deed of assignment, the consideration amount of Rs.1.04 crores was to be paid to the petitioner. It was the case of the petitioner that an amount of Rs.69 lakhs was paid by the respondent No.2 but the balance amount was still payable and without notice to the petitioner, the respondent No.2 had deposited the original title deeds with the respondent No.1 for availing of loan facility.

8. It is the case of the petitioner that in such circumstances, the petitioner was constrained to file Securitization Application No.120 of 2021 on 27.09.2021, praying for a declaration that the security interest created by the respondent No.2 with respondent No.1 in respect of the subject immovable property was invalid and unenforceable. A further prayer was made for setting aside symbolic possession taken by respondent No.1. It was also brought to the notice of this Court that Regular Civil Suit No.387 of 2021 was filed before the Court of Civil Judge Junior Division, Belapur, Navi Mumbai for certain declarations by claiming that the said deed of assignment was cancelled by giving notice to the respondent No.2. An application for temporary injunction (exhibit-

5) was filed in the pending suit.

9. When the securitization application was taken up for consideration on 19.12.2023, the respondent No.1 was represented and a settlement was arrived at between the petitioner and the respondent No.1. The DRT recorded the following order on 19.12.2023:-

> “Advocate Mr. M. Ramesan for the Applicant.
> Advocate Mr. J. I. Kazi for the Respondent No.1.
> Other Respondents absent.
>
> Both parties are ready to settle the matter and according to the counsel for the Applicant, the Respondent No.1 can sell the property and out of the sale proceeds, he may be given Rs.45 Lakhs when the property is sold and this proposal of the Applicant is acceptable to the Respondent No.1 provided the Applicant hands over the vacant possession to facilitate the sale of the property for fetching more sale consideration. So, in view of the amicable settlement between the Applicant and Respondent No.1, the Applicant shall deliver the possession to the Respondent No.1 within two weeks from today and the Respondent No.1 shall sell the property and out of sale proceeds, the Applicant shall be given Rs.45 Lakhs. In case of breach of the aforesaid conditions by any of the parties, the parties would be at liberty to apply to this Tribunal for revival of the S.A. Accordingly, Securitization Application No.120 of 2021 stands disposed of.
>
> File be consigned to the Record room.”

10. As a consequence, the securitization application stood disposed of with liberty to the parties to apply for revival in case there was any breach of the conditions recorded in the said order.

11. According to the petitioner, an application for restoration of the securitization application was moved, due to which, it was listed before the DRT on 19.03.2024, when the following order was passed:-

> “Advocate Mr. M. Ramesh for the Applicant.
> Advocate Mr. G. I. Kazi for the Respondent.
>
> Counsel for the Applicant submits that his client is ready and willing to keep the key in the Society’s Office for the

> inspection of the property to the parties brought by the Respondent and the Respondent will try his level best to dispose of the property in a period of 6 months and in case the property is not sold, then the Applicant has agreed to pay the amount which was taken by the Respondent No.2, i.e. Rs.69 Lakhs. The Applicant is directed to place the key in the Office of the Society, so, that the Respondent can bring customer for inspection of the property in question.
>
> Now for settlement, to come up on 26.09.2024."

12. The petitioner alleges that the respondent No.1 illegally took physical possession of the subject immovable property without informing the petitioner and that, on 24.11.2025, an e-auction sale notice was put up, specifying date of auction as '25.12.2025'. It appears that no buyer turned up in response to the said e-auction sale notice.

13. Thereafter, the aforementioned subsequent e-auction sale notice dated 30.12.2025 was issued, fixing the date of auction as '19.01.2026'. It was submitted on behalf of the petitioner that the restoration application of the petitioner is now kept before the DRT-1, Mumbai on 19.01.2026 and it is apprehended that if the auction sale does take place, the restoration application may, itself, be rendered infructuous and the petitioner would be left remediless. It is in these circumstances that the petitioner has approached this Court, seeking reliefs including a direction to the DRT to restore the securitization application and to hear the same on merits within a particular time-frame and that, during the said period, the e-auction sale notice be stayed and respondent No.1 be restrained from creating third party rights.

14. The learned counsel appearing for contesting respondent No.1 submits that the instant writ petition ought not to be entertained, for the reason that the petitioner violated the above-quoted orders passed on 19.12.2023 and 19.03.2024 by the DRT. It was submitted that in such a situation, the respondent No.1 ought not to be restrained from

conducting auction sale as proposed on 19.01.2026.

15. It is submitted that the petitioner and the respondent No.2 appear to be acting in connivance with each other, as a consequence of which, the respondent No.1 has suffered and the amounts due to it have not been paid. As on today, the amount due has blown up to about Rs.1.90 crores. It is further submitted that the petitioner has not acted *bona fide* and therefore, no indulgence may be shown to the petitioner.

16. It is brought to the notice of this Court that notices have been put up on the subject immovable property by the petitioner, which has detrimental effect on buyers participating in the proposed e-auction sale and this is evident from the fact that when the auction was indeed conducted on 29.12.2025, not a single buyer had turned up.

17. On this basis, it is submitted that while on the one hand, the petitioner has acted in a manner detrimental to the interest of respondent No.1, on the other it has itself to blame for its own predicament.

18. The learned counsel for the said respondent has also relied upon the judgement of the Supreme Court in the case of *Dahiben Vs. Arvindbhai Kalyanji Bhanusali thr. LRs and others*, **AIR 2020 SC 3310** on the aspect of unpaid consideration and the manner in which the document like the deed of assignment is to be interpreted by the Court. It was submitted that even the reliefs sought in the securitization application itself cannot be granted by the DRT.

19. The aforesaid factor, coupled with the fact that the petitioner has already knocked the doors of the Civil Court clearly indicates that the writ petition ought to be dismissed. Much emphasis was placed on an order dated 08.01.2026 passed by the Court of Civil Judge, Belapur, Navi Mumbai, dismissing the application for temporary injunction

(exhibit-5) filed on behalf of the petitioner in the pending suit. On this basis, it was submitted that the writ petition ought to be dismissed.

20. We have considered the rival submissions. It is evident that when the securitization application was taken up for consideration by the DRT, on 19.12.2023, the petitioner as well as the respondent No.1 agreed for a particular manner in which the parties would act, as a consequence of which, the DRT treated the matter as settled and the securitization application, itself, was disposed of. But, the DRT directed that in case there was a breach of any of the conditions by the parties, they would be at liberty to apply to the tribunal for revival of the securitization application.

21. The DRT thereafter again heard the petitioner and the respondent No.1 on 19.03.2024, purportedly on application for revival / restoration moved by the petitioner and issued directions as per the above-quoted order dated 19.03.2024.

22. We find that in the said order, a reference is made to an amount of Rs.69 lakhs, which is nothing but the amount received by the petitioner from respondent No.2, in the light of the said registered deed of assignment executed between the said parties. The petitioner claims that it had kept the said amount in a separate account and that, the said amount, even today, is available for being appropriately dealt with.

23. We find that the respondent No.1 is essentially interested in the payment of amount due to it and in that light in pursuing the aforesaid auction sale to be conducted on 19.01.2026. Being fully aware of its rights, respondent No.1 itself agreed for settlement as recorded in the order dated 19.12.2023. It is also to be noted that the DRT recorded that the respondent No.1, while pursuing its application for revival / restoration of the securitization application, had, itself, agreed to pay the

amount of Rs.69 lakhs, which was received from the respondent No.2.

24. In such a situation, we had specifically put a query to the learned counsel for respondent No.1, as to whether it would be ready to give an amount of Rs.45 lakhs to the petitioner if the auction sale was permitted to be conducted as proposed on 19.01.2026. This was in the light of the specific observations / directions contained in the above-quoted order dated 19.12.2023 passed by the DRT, which was the basis for disposal of the securitization application as per the settlement between the petitioner and respondent No.1. In response, the learned counsel for respondent No.1 could not make a specific statement as clear instructions were not received in that regard.

25. On the other hand, the learned counsel appearing for the petitioner, on instructions, made a statement that the petitioner is ready to deposit the aforesaid amount of Rs.69 lakhs with the DRT within a short period of time for consideration of its application for revival / restoration and that till such time the restoration / revival application is decided, this Court may be pleased to grant stay of the proposed auction sale. It was also submitted that if the said amount of Rs.69 lakhs is deposited with the DRT, this Court may further consider granting stay of the auction sale for further reasonable period so that in either circumstance that is, in case of dismissal of the application for restoration / revival or it being allowed, the petitioner would be able to take further steps to protect its interest. It was emphasized that if the auction sale is permitted to go ahead, unnecessary complications would be created as third parties would enter the fray.

26. We find that in the light of the respondent No.1, itself having agreed for settlement in terms of the above-quoted order passed by the DRT on 19.12.2023 and also in the light of the subsequent above-quoted order dated 19.03.2024 passed by the DRT, since the petitioner has

specifically made a statement that an amount of Rs.69 lakhs can be deposited immediately before the DRT, an opportunity can be given to the petitioner to pursue its application for restoration / revival of the securitization application, in accordance with law. There is substance in the contention raised on behalf of the petitioner that allowing the auction sale to be conducted on 19.01.2026 would create complications during the pendency of the said application before the DRT as a third party would enter the fray and possession of the subject immovable property may be handed over to such a third party. As on today, the possession continues to be with the respondent No.1.

27. Hence, we are inclined to partly allow the present writ petition in the following manner:-

(a) The petitioner shall deposit an amount of Rs.69 lakhs with the DRT on or before 20.01.2026;

(b) In the light of the statement made on behalf of the petitioner and the aforesaid direction given in clause (a) above, the auction sale fixed on 19.01.2026 is stayed. It is made clear that if the petitioner fails to deposit the aforesaid amount of Rs.69 lakhs before the DRT on or before 20.01.2026, the stay shall stand vacated without reference to this Court;

(c) Upon the said amount of Rs.69 lakhs being deposited by the petitioner before the DRT on or before 20.01.2026, the restoration / revival application, preferred by the petitioner for restoration of Securitization Application No.120 of 2021, shall be taken up for consideration by the DRT on its own merits and in accordance with law;

(d) The DRT shall dispose of the said application for revival / restoration preferred by the petitioner, on or before

06.02.2026. No extension of time shall be granted;

(e) The interim stay of the auction sale shall remain in operation for a further period till 16.02.2026. This is to enable the petitioner to take remedial measures in either case, that is, if the restoration / revival application is dismissed or if it is allowed, to submit further application, if so advised, in the pending securitization application upon revival;

(f) If the securitization application is restored, the petitioner would be at liberty to move an appropriate application for extension of stay of the auction sale, which shall be decided in accordance with law. Respondent No.1 will also be at liberty to move an appropriate application for withdrawal of the amount, which will be deposited by the petitioner, as indicated hereinabove;

(g) Within two days, the petitioner shall remove notices that are pasted on the subject immovable property, which has the effect of discouraging prospective purchasers.

28. This Court has not commented upon the merits of the claims of the either parties.

29. Writ petition is disposed of in above terms.

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

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