**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO. 994 OF 2026**

Saraswati Bharat Harwani & Ors. ... Petitioners
Versus
Debts Recovery Appellate Tribunal,
Mumbai & Anr. ... Respondents

******

Mr. Charles De Souza a/w Mr. Aniket Sharma for the Petitioners.
Mr. A. I. Patel, Addl. G. P. a/w Mr. M. M. Pabale, AGP for Respondent-State.
Mr. Kaustubh Gupte a/w Ms. Manali Gori for Respondent No.2.



******

**CORAM : MANISH PITALE AND SHREERAM V. SHIRSAT, JJ.**
**DATE : 23rd JANUARY 2026**

**P.C. :**

. This petition is taken up for the first time for consideration, but since contesting respondent No.2 is represented by counsel, the petition is heard for disposal.

2. It is to be noted that respondent No.1 is proforma respondent i.e. Debt Recovery Appellate Tribunal (DRAT), Mumbai.

3. The subject matter of challenge in this writ petition is order dated 2nd January 2026 passed by the DRAT, directing the petitioners to deposit 25% of the amount due, as a pre-condition for considering the appeal. The said order has been passed under proviso to Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act).

4. The grievance of the petitioners is that the amount on which 25% is calculated is erroneous, in as much as the amount due and outstanding, as per the notice under Section 13(2) of the Securitisation Act, was an amount of Rs.2,15,50,509/-, but the DRAT has directed to pay 25% of Rs.6,68,91,198/-. It is submitted that the aforesaid figure was orally submitted on behalf of respondent No.2 before the DRAT without any documentary material to support the same.

5. It is further submitted that, in any case, as per the law laid down by the Supreme Court in the case of *M/s Sidha Neelkanth Paper Industries Private Limited & Anr. v/s. Prudent ARC Limited & Ors.* (judgment and order dated 5th January 2023 passed in Civil Appeal No. 8969 of 2022), the amount due in such cases in the context of proviso to Section 18 of the Securitisation Act, has to be calculated on the basis of the debt due as mentioned in notice under Section 13(2) of the Securitisation Act, so long as the challenge is only to measures under Section 13(2)/13(4) of the Securitisation Act. It is pointed out that, in the present case, the process of sale is yet to be undertaken, although the order under Section 14 of the Securitisation Act was obtained by respondent No.2 as far back as in the year 2021. It is only if the borrower/ guarantor challenges an auction sale of the secured asset that the debt due would be inclusive of interest.

6. The said position of law could not be disputed by the respondent No.2 and hence, we find substance in the contention

raised on behalf of the petitioners that even if they are required to deposit an amount of 25% of the debt due, the basis of calculation of the same ought to be the amount mentioned by the respondent No.2 in the notice issued under Section 13(2) of the Securitisation Act.

7. Since the amount therein admittedly was Rs.2,15,50,509/-, the 25% amount would have to be calculated on the same.

8. We find that the DRAT fell in error in insisting upon the petitioners depositing 25% of Rs.6,68,91,198/- towards pre-deposit in terms of proviso to Section 18 of the Securitisation Act.

9. It is not disputed that the first installment of Rs.50,00,000/- is already deposited by the petitioners. Calculating 25% on the aforesaid amount of Rs.2,15,50,509/- and rounding of the balance amount, we direct the petitioners to deposit a further amount of Rs.10,00,000/- in the Registry of the DRAT, on or before 2nd February 2026. To that extent, the impugned order passed by the DRAT is modified and it is held that, upon the petitioners depositing the balance amount of Rs.10,00,000/- within the time period indicated hereinabove, it shall be treated as deposit towards 25% of the amount due under proviso to Section 18 of the Securitisation Act.

10. The writ petition is disposed of in above terms.

11. Pending applications, if any, also stand disposed of.

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