

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3609 OF 2026**

Bank of Maharashtra,
Through Chief Manager Pradnya Sunil Kode ... Petitioner
vs.
Union of India,
Through Ministry of Corporate Affairs and others ... Respondents

Mr. Aayush Kothari a/w. Mr. Sachin Patil, i/b. Nitesh Agarwal for petitioner-bank.

Mr. Rohit Agarwal a/w. Ms. Kruti Bhavsar, Mr. Pratik Barot and Ms. Angel Pandey for respondent Nos.2 to 12.

Ms. Pradnya Sunil Kode, Chief Manager, Bank of Maharashtra.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ**

DATE : 18th MARCH, 2026

P.C. :

1. Heard learned counsel for the petitioner-bank (secured creditor) and the learned counsel appearing for the contesting respondent Nos.2 to 12 (borrowers and guarantors). Respondent No.1 – Union of India is a formal party and hence, issuance of notice on the said respondent is dispensed with.

2. The petitioner-bank has invoked writ of *certiorari* before this Court in peculiar circumstances. The petitioner-bank is aggrieved by the approach adopted by the Debts Recovery Tribunal-III, Mumbai (DRT) while passing order dated 02.03.2026. By the said order, the DRT has directed the petitioner-bank to restore possession of the secured asset to the contesting respondents.

3. It is an admitted position that the petitioner-bank has taken recourse to the statutory remedy of appeal before the Debts Recovery

Appellate Tribunal (DRAT) by filing Miscellaneous Appeal (Diary) No. 381 of 2026. It is specifically stated in this petition that the said appeal was taken up for consideration by the DRAT on 16.03.2026. It was heard for some time and thereupon, the DRAT adjourned the hearing to 16.06.2026 for the contesting respondents to file their reply to the appeal. It is specifically stated in paragraph No.22 of the petition that the DRAT refused to grant interim relief. It is also an admitted position that the order dated 16.03.2026 passed by the DRAT, is still not uploaded on the website. In other words, the parties do not have a written order of the DRAT, regarding the proceeding that took place on 16.03.2026 in the said pending appeal.

4. The petitioner-bank claims that in the absence of any protection in the pending appeal, the restoration of possession may become inevitable, without consideration of challenge on merits before the DRAT.

5. The orders passed by the DRT are also brought to our notice in order to claim that the order dated 02.03.2026, directing the petitioner-bank to restore possession of the secured asset to the contesting respondents, is wholly unsustainable and beyond jurisdiction. In this context, reliance is placed on a Full Bench judgment of the Madras High Court in the case of *M/s. Lakshmi Shankar Mills (P) Ltd. and others vs. The Authorized Officer/Chief Manager, Indian Bank and others*, **2008-2-L.W. 381**.

6. It is vehemently submitted that there was no ad-interim/interim order passed by the DRT, when the petitioner-bank, as secured creditor, proceeded to take physical possession of the secured asset and therefore, in such peculiar circumstance, this

Court may entertain the present petition and grant protection to the petitioner-bank.

7. The learned counsel appearing for the contesting respondents, on the other hand, submitted that the DRT, in its order dated 02.03.2026 and in the proceedings prior to the said date, recorded that a direction was given to the petitioner-bank to hold its hands and this was not specifically disputed by the petitioner-bank. In the face of such facts, it cannot be said that the DRT erred in passing the order dated 02.03.2026, directing restoration of possession of the secured asset to the contesting respondents. It was emphasized that in any case, the petitioner-bank has impugned the proceedings before the DRAT and therefore, the writ petition ought not to be entertained.

8. We have considered the rival submissions. In the peculiar facts and circumstances of the present case, we are inclined to entertain the writ petition for limited purpose.

9. We find that the appeal filed by the petitioner-bank impugning the order dated 02.03.2026 passed by the DRT, is still pending. It is also an admitted position that although the appeal was heard for some time on 16.03.2026, when it was adjourned to 16.06.2026. The order of the DRAT is not available and it has not been uploaded till the time this petition is taken up for arguments before this Court. There is no way in which it can be ascertained as to whether the claim of the petitioner-bank that interim relief was refused, is correct or not. We find this to be a strange circumstance and a situation warranting invocation of writ of *certiorari* in the face of the aforesaid procedure adopted by the DRAT in hearing the parties and dictating

order, but failing to ensure that the order is made available to the parties. In such a situation, the petitioner-bank is left without protection, despite it having substantially challenged the order dated 02.03.2026 passed by the DRT.

10. As regards the order passed by the DRT, we find that when the petitioner-bank took physical possession of the secured asset, there was no written order to the petitioner-bank restraining it from doing so.

11. We are of the opinion that the practice of issuing ‘oral directions’ cannot be countenanced in proceedings conducted by the judicial/quasi judicial authorities. Nothing prevented the DRT from passing a short ad-interim order dated 09.02.2026, when the application filed by the contesting respondents for relief, was taken up for consideration. The said order simply adjourned the hearing to 12.02.2026, recording that detailed notes of arguments were filed, in the light of the fact that the possession was intended to be taken on the said date. That’s all that the order dated 09.02.2026 records. There is no direction or ad-interim order restraining the petitioner-bank from taking physical possession of the secured asset.

12. *Prima facie*, we find that in the light of the contents of the order dated 09.02.2026, the presumption on the basis of which the order dated 02.03.2026 is passed by the DRT, directing restoration of possession of secured asset, is not made out. These are only *prima facie* observations, since substantive appeal of the petitioner-bank is still pending before the DRAT.

13. We would not say anything more beyond deprecating the said

practice of the DRT in relying upon 'oral directions' instead of passing written ad-interim/interim orders. But for the approach adopted by the DRT in the facts and circumstances of the present case, the complications would not have occurred for the contesting respondents to file application for restoration of possession of the secured asset. It is for the DRT to consider the question as to whether the applicant before it has made out a case for granting ad-interim/interim orders and to pass written orders thereon, rather than making 'oral directions' or 'oral observations'.

14. In view of the above, we dispose of the writ petition as follows:

- (a) The DRAT is directed to take up the aforesaid miscellaneous appeal filed by the petitioner-bank for consideration at the earliest and to dispose of the same expeditiously and in any case, within a period of four weeks from today.
- (b) Till such time as the said miscellaneous appeal is decided and disposed of by the DRAT, there shall be stay to the effect and operation of the order dated 02.03.2026 passed by the DRT in Interlocutory Application No. 430 of 2026 in Securitisation Application No.70 of 2026.

15. We have granted interim stay due to the peculiar circumstances of this case, in the light of the observations made hereinabove. The DRAT shall decide the miscellaneous appeal filed by the petitioner-bank without being influenced by the observations made in this order.

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

(SHREERAM V. SHIRSAT, J)

(MANISH PITALE, J.)