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

WRIT PETITION NO. 3815 OF 2026

Atharva Landmark CHSL Through
Its Secretary and Ors. ...Petitioners
Versus
Khush Housing Finance Ltd. and Anr. ...Respondents

Mr. Vishal Kanade a/w Mr. Jay Rajpopat for the Petitioners.
Mr. Rishabh Shah i/b Mr. B.K. Barve for Respondent No.1.

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

DATE: 25th MARCH 2026

P.C.

1. The Petitioners have rushed to this Court primarily on the ground that although they have taken recourse to the available statutory remedy of Appeal, by filing Appeal before the Debts Recovery Appellate Tribunal, Mumbai (DRAT, Mumbai), as per notice issued by the Registrar of DRAT, Mumbai, the Chairperson of the DRAT, Mumbai is not available from 20th March 2026 to 27th March 2026.

2. The Petitioners claim urgency in the matter on the basis of the notice dated 9th March 2026 issued by two Court Commissioners appointed on the basis of an order passed by the competent Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, stating that possession of the secured assets would be taken on 28th March 2026 at 11.00 a.m. The properties in

possession of the Petitioners are covered in the schedule contained in the said notice.

3. Learned Counsel for the Petitioners submits that it is in these circumstances that the Petitioners are constrained to approach this Court for limited protection.

4. An affidavit of the Petitioner is tendered, stating the difficulties faced in moving the Debts Recovery Appellate Tribunal, Chennai (DRAT, Chennai) as the in-charge Tribunal, due to non availability of the DRAT, Mumbai. It is specifically stated that the papers are required to be physically sent to Chennai and urgent interim reliefs can be claimed only after the papers reach DRAT, Chennai. Considering the limited time available for the Petitioners to undertake such action, they are constrained to move this Court. It is submitted that if the physical possession is taken on the strength of the aforesaid notice issued by the two Court Commissioners, the prayer for interim relief before the DRAT, Mumbai would be rendered infructuous.

5. Learned Counsel for the Petitioners also sought to make submissions on the merits of the matter, but we are of the opinion that such submissions ought to be considered by the DRAT, Mumbai, where the statutory remedy of Appeal has been availed by the Petitioners.

6. It is also relevant to note that the Petitioners in the first instance had directly approached this Court against the order of the Debts Recovery Tribunal – II, Mumbai by filing Writ Petition No. 2828 of 2026. We had

permitted the Petitioners to withdraw the said Petition, in order to avail the alternative remedy of approaching the DRAT, Mumbai.

7. The Learned Counsel appearing for the contesting Respondent No.1 submitted that the Petitioners are themselves to blame for their predicament, as they chose to file the Appeal before the DRAT, Mumbai on 16th March 2026 after they had withdrawn the earlier Writ Petition before this Court on 7th March 2026. It was only to create a sense of urgency before this Court that the difficulty of approaching the in-charge Tribunal at Chennai has been projected on behalf of the Petitioners. The Learned Counsel for contesting Respondent No.1 submitted that in such situation papers are regularly sent by courier to the DRAT, Chennai and urgent matters are indeed taken up.

8. We are of the opinion that the proposed physical possession of the secured assets being taken on 28th March 2026 and DRAT, Mumbai not being available till 27th March 2026, indeed creates a crunch of time for the Petitioners to seek ad-interim/interim relief in their Appeals filed before the DRAT, Mumbai. Only on the said ground of non availability of DRAT, Mumbai till 27th March 2026 we are inclined to consider the present Writ Petition and dispose it of by issuing appropriate directions. We have not heard rival parties on the merits of their respective claims, for the reason that it is for the DRAT to consider the rival submissions while testing the claim of the Petitioners about their entitlement for ad-interim/ interim relief.

9. But, if limited protection is not granted, the notice dated 9th March 2026 issued by the two Court Commissioners will culminate in physical possession being taken on 28th March 2026, which would render infructuous the prayer for ad-interim/interim relief being pursued on behalf of the Petitioners before the DRAT, Mumbai.

10. On this limited ground, the Writ Petition is disposed of by directing that the action of taking physical possession of the secured asset shall stand deferred till 2nd April 2026. No fresh notice need be issued in that regard. We make it clear that this Court has not expressed any opinion on the merits of the matter and it is only due to non availability of the DRAT, Mumbai that we are constrained to issue the aforesaid direction.

11. The DRAT, Mumbai shall take up the Appeals filed by the Petitioners for consideration on 30th March 2026 and after hearing the parties pass appropriate orders on the prayer for ad-interim/interim relief being made on behalf of the Petitioners.

12. It is further made clear that in the event the DRAT, Mumbai is for some reason not available even on 30th March 2026, the Petitioners shall take appropriate steps to move the in-charge DRAT, Chennai.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)