IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5525 OF 2026

Pavan Ramlotan Khandu and others … Petitioners
vs.
SMFG India Home Finance Co. Ltd. and another … Respondents

Ms. Preeti Barde for petitioners.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ
DATE : 24th APRIL, 2026

P.C. :

. By this petition, the petitioners (borrowers) have approached this Court, challenging the action taken by respondent No.1 – secured creditor, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act).

2. The petitioners have prayed for quashing of an order passed by the competent Magistrate under Section 14 of the Securitisation Act. This Court is informed that possession of the secured asset is already taken by respondent No.1.

3. The Supreme Court, in a number of judgements, has categorically held that the High Courts exercising writ jurisdiction ought not to entertain such writ petitions, for the reason that a statutory remedy is available under the Securitisation Act. In the case of *United Bank of India vs. Satyawati Tondon and others*, **(2010) 8 SCC 110**, the Supreme Court observed as follows:

‘42. There is another reason why the impugned order should be set aside. If Respondent 1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by filing an application under Section 17(1). The expression "any person" used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also the guarantor or any other person who may be affected by the action taken under Section 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective.

43. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate

cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.'

4. In a subsequent judgement in the case of *Celir LLP vs. Bafna Motors (Mumbai) Private Limited and others,* **(2024) 2 SCC 1**, the Supreme Court observed that despite the said position of law being reiterated in a number of judgements, various High Courts still entertain writ petitions. The Supreme Court, in its said judgement, observed as follows:

'101. More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in *Satyawati Tondon* , it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.'

5. In view of the aforesaid position laid down, repeatedly reiterated by the Supreme Court, it is clear that the present petition filed by the borrowers, cannot be entertained.

6. In view of the above, the writ petition is dismissed.

7. Needless to say, the petitioners are at liberty to invoke the statutory remedy available under the Securitisation Act.

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

Priya Kambli