IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5981 OF 2026

Edelwiss Asset Reconstruction Company Limited	..	Petitioner
V/S.		
Siddhant Collection And Ors	..	Respondents

Mr. Bhalchandra Palav with Aniket Dighe, Aditya Dutt, Priyanka Shelar and Pindy Pawar i/by Bhal and Co., for the Petitioner.

Mr. R.B. Huded and Madhav Chavan, for respondent nos. 1 to 3.

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

DATE : 30TH APRIL 2026.

PC:

1. Heard learned counsel for the petitioner and learned counsel for respondent nos. 1 to 3 (borrowers). Respondent No. 4 is the auction purchaser.

2. The petitioner is an Asset Reconstruction Company claiming to be a secured creditor and has initiated action under the provisions of the Securitisation and Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002, against respondent Nos. 1 to 3.

3. The petitioner is an assignor from a non-banking finance company called HDB Financial Services. This Court is informed that respondent Nos. 1 to 3 filed a Securitisation application before the

Debts Recovery Tribunal, Pune (DRT) to challenge the action undertaken by the petitioner under the provisions of the Securitisation Act. In the pending Securitisation application, respondent Nos. 1 to 3 filed interlocutory application seeking interim reliefs. The said application has been disposed of by the impugned order, with which the petitioner is aggrieved.

4. By the impugned order, while allowing the interlocutory application, the DRT observed that the petitioner was not precluded from taking further steps in the matter against respondent Nos. 1 to 3 as regards the outstanding amount, but it proceeded to quash the demand notice under Section 13(2) of the Securitisation Act and also directed restoration of the possession of the property in favour of the said respondents.

5. Learned counsel for the petitioner relied upon the judgments of the Supreme Court in the cases of **'M.D. Frozen Foods Exports Private Limited and Ors Vs. Hero Fincorp Limited'**[1] and **'Indiabulls Housing Finance Limited Vs. Deccan Chronicle Holdings Limited and Ors'**[2] and the judgment of this Court in the case of '**Poorti Rent a Car and Logistic Pvt. Ltd. Vs Kotak Mahindra Bank Limited and Ors'**[3]**.**

6. It is submitted that on a proper appreciation of the ratio of the said judgments, it would be evident that the impugned order is unsustainable. It is submitted that the status of the assignor of the petitioner was immaterial, so long as the requirements for invoking provisions of the Securitisation Act, as identified in Paragraph 18 of the

1 (2017) 16 SCC 741
2 (2018) 14 SCC 783
3 (2022) SCC Online bom 4950

judgment of the Supreme Court in the case of **'M.D. Frozen Foods Exports Private Limited and Ors Vs. Hero Fincorp Limited'** (supra), were duly satisfied.

7. On this basis, it was submitted that even though the assignor of the petitioner may be hit by notifications dated 24/02/2020 and 12/02/2021 issued under Section 2(1)(m)(iv) of the Securitisation Act, inasmuch as the amount due was below Rs. 20 lakh, the petitioner would not be adversely affected by the same.

8. On the other hand, learned counsel for respondent Nos. 1 to 3 vehemently defended the impugned order and he submitted that the judgments of the Calcutta High Court and Himachal Pradesh High Court referred to in Paragraph 4 of the impugned order of the DRT sufficiently clarified the position of law in favour of the said respondents.

9. It was submitted that recourse to provisions of Securitisation Act was not available to the petitioner and this point was correctly appreciated by the DRT while passing the impugned order.

10. On this basis, it was submitted that the Writ Petition may be dismissed.

11. We have considered the rival submissions. We find that apart from the contentions raised by learned counsel for the petitioner on the one hand and learned counsel for respondent Nos. 1 to 3 on the other, a crucial issue that arises for consideration is, as to whether the DRT could have granted the directions contained in the operative portion of the impugned order, which amount to virtually granting

final relief to respondent Nos. 1 to 3 at the interim stage. The operative portion of the impugned order of the DRT reads as follows:

> *"A) The application is allowed.*
>
> *B) Demand Notice dated 23/09/2024 issued u/s 13(2) and all further actions including Sale conducted on 6th March 2026 in pursuant to Sale Notice dated 30/01/2026 are hereby quashed and set aside.*
>
> *C) Defendant ARC is directed to restore the possession of the suit property to the applicant within two weeks from today.*
>
> *D) The defendant ARC is not precluded from undertaking necessary steps as available to it under the law to recover the outstanding amount from the applicants."*

12. We are of the opinion that even if the DRT reached the conclusion that respondent Nos. 1 to 3 had come with a meritorious case, nothing prevented the DRT from considering the Securitisation application itself finally. Instead, while considering the interim application, the DRT in a brief order granted directions in the operative portion, quoted hereinabove, that virtually amount to granting final relief as prayed in the Securitisation application.

13. We find that while the directions contained in clause (D) may not require any interference, the directions at clauses (B) and (C) of the operative portion amount to virtually allowing the Securitisation application itself of respondent Nos. 1 to 3. As per clause (B) of the operative portion, notice under Section 13(2) and further action, including sale and sale notice have been quashed and set aside at the

interim stage itself. As per clause (C) of the operative portion, the petitioner has been directed to restore the possession of the property to the respondent Nos. 1 to 3, within two weeks from the date of the order. If the directions at clauses (B) and (C) of the operative portion are executed, nothing remains for the petitioner to resist and it amounts to the Securitisation application itself being allowed finally at the interim stage.

14. We are of the opinion that the aforesaid approach adopted by the DRT is in the teeth of the position of law that final relief cannot be granted at the interim stage. This is a settled position of law as recognised by this Court in a recent order dated 24/03/2026 passed in Writ Petition No. 1211 of 2026 (Hill Top Estate Vs. Union of India). It is also a settled position of law that if the subordinate Court or Tribunal passes an order in the teeth of the position of law recognised by superior Courts, it amounts to an error in the exercise of jurisdiction by said subordinate Court or Tribunal (See East India Commercial Co. Ltd. Vs. Union of India and Ors)AIR 1962 SC 1893.

15. In view of the above, we are of the opinion that such a jurisdictional error committed by the DRT entitles the petitioner to approach this Court in writ jurisdiction, despite the availability of the alternative remedy of filing an appeal before the Debts Recovery Appellate Tribunal

16. We are of the opinion that the petitioner, on this short ground, has made out a case for partly interfering with the impugned order. Although the learned counsel for the petitioner made an attempt to convince this Court that the position of law clarified by the Calcutta

High Court and Himachal Pradesh High Court in the said judgments referred to in paragraph 4 of the impugned order, is not good law, we are of the opinion that the said contentions should be raised before the DRT at the stage of final hearing of the Securitisation application.

17. In view of the above, the Writ Petition is partly allowed.

18. The direction contained in clause (B) of the operative portion is modified to direct that further steps shall not be taken by the petitioner under the provisions of Securitisation Act in pursuance of the notice issued under Section 13(2) thereof, during the pendency of the Securitisation application.

19. Clause (C) of the operative portion of the order is set aside, as restoring the possession during the pendency of the Securitisation application would amount to granting final relief at the interim stage. Hence, the said direction is set aside.

20. In view of the above, the impugned order of the DRT stands modified to the above extent and the Writ Petition is disposed of.

21. The DRT at Pune is directed to take up the Securitisation application for disposal at the earliest, considering the short issue involved in the matter. The Securitisation application shall be disposed of as expeditiously as possible and in any case within a period of four weeks from today. This Court has not expressed any opinion on the merits of the matter. All contentions of the parties are kept open.

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