

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

WRIT PETITION NO. 5982 OF 2026

Ganesh Shivram Navghane and Another

...Petitioners

Versus

The Cosmos Co-Operative Bank Ltd. and Others

...Respondents

Dr. Uday Warunjikar i/b Mr. Bhushan Deshmukh a/w Mr. Shashank Patore
for the Petitioners.

Mr. Rishabh Shah a/w Ms. Lisa Kinny i/b Mr. Raval Shah & Co. for
Respondent No. 1-Bank.

Mrs. Tanu N. Bhatia, AGP for Respondent No. 4—State Authority.

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

DATE : 30th APRIL, 2026.

P.C. :

. By this Writ Petition, the Petitioners (Original Borrowers) have challenged order dated 16.04.2026 passed by the Debt Recovery Appellate Tribunal (“**DRAT**”), Mumbai, whereby an application seeking waiver of pre-deposit under Proviso to Section 18(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, was disposed of by directing the Petitioners to deposit the specific amount i.e. 25% of the amount stated in the demand notice. It was further directed that if the said amount was not deposited in two installments within the timeline specified in this impugned order, the Appeal would stand dismissed automatically without further reference to the Tribunal.

2. This Petition was urgently circulated today for the reason that the first installment as per the impugned order is due and payable

today.

3. The Learned Counsel for the Petitioners submits that the DRAT committed an error in not taking into account the amounts deposited by the Petitioners during the pendency of the proceedings before the Debt Recovery Tribunal (“DRT”) and also in the light of a specific direction issued by a Division Bench of this Court in an earlier Writ Petition bearing Writ Petition No. 6027 of 2025 filed by the Petitioners. It was submitted that if the said amounts were taken into account, the DRAT ought to have allowed the application for waiver.

4. The Learned Counsel appearing for Respondent No. 1-Bank (Secured Creditor) has opposed the prayers made in the present Writ Petition, stating that there are further amounts due from the Petitioners.

5. We are of the opinion that this Court need not go into the chronology of events and the facts in detail, for the reason that two admitted facts are enough to dispose of this Petition. *Firstly*, as per order dated 05.05.2025 passed in the earlier Writ Petition No. 6027 of 2025 filed by the Petitioners, this Court had directed the Petitioners to deposit an amount of Rs. 7,69,305/- with Respondent No. 1-Bank within 2 weeks to facilitate deferment of an action of taking possession by a period of 15 days. Admittedly the said amount was deposited by the Petitioners with Respondent No. 1-Bank. *Secondly*, in the order dated 10.03.2026 passed by DRT-II, the Petitioners were directed to deposit amounts of Rs. 3,00,000/- and Rs. 2,00,000/- with Respondent No. 1-Bank, apart from depositing regular EMIs. It is also an admitted position that the said amounts

totaling Rs. 5,00,000/- were also deposited by the Petitioners with Respondent No. 1-Bank. It appears that the Petitioners filed the said Appeal before the DRAT, being aggrieved by the further direction to also deposit regular EMIs with Respondent No. 1-Bank.

6. The aforesaid two admitted facts show that the Petitioners have already deposited total amount of Rs. 12,69,305/- with Respondent No. 1-Bank. If this amount was to be taken into account by the DRAT, it would not have directed the Petitioners to make pre-deposit to the extent of 25% of the Demand Notice, as was directed in the impugned order.

7. The impugned order does not show application of mind to the said aspect of the matter, although a submission was made on behalf of the Petitioners that, according to them, entire amount had been paid to Respondent No. 1-Bank. Even if the said contention regarding entire amount having been paid could be disputed, in the light of the said amounts already deposited by the Petitioners with Respondent No. 1-Bank, in our opinion the application for waiver ought to have been allowed.

8. In view of the above, the impugned order passed by the DRAT is set aside and the application for waiver i.e. Interim Application No. 196 of 2026 filed by the Petitioners is allowed.

9. Consequently, it is directed that the Appeal filed by the Petitioners shall be registered. The DRAT shall now proceed further in accordance with law.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)