IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.336 OF 2026
IN
WRIT PETITION NO.685 OF 2026

M/S. Kapole Advertising Agency and Ors …Petitioners
Versus
Standard Chartered Bank and Ors …Respondents

Mr. Anirudh Hariani a/w Ms. Kruti Bhavsar, Mr. Pratik Barot, for the Petitioners.
Mr. R. L. Motwani, for Respondent No.1.

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

DATE: 14th JANUARY 2026.

P.C.

1. Heard learned counsel for the petitioners and the learned counsel appearing for Respondent No.1- the Bank.

2. The petitioners are pressing for ad-interim relief in the light of the Respondent No.1- Bank bringing to the notice of this Court that after the impugned order passed by the Debt Recovery Tribunal (DRT), the sale certificate was registered yesterday, i.e., on 12th January, 2026.

3. The petitioners specifically rely upon the provisions of the Insolvency and Bankruptcy Code (IBC), 2016, to claim that upon filing of an application to initiate the insolvency resolution process by one of the

creditors, the moratorium under Section 96 of the IBC was triggered. By specifically relying upon the case status of such proceeding initiated before the National Company Law Tribunal (NCLT), Mumbai, it was emphasized that since the application for initiating the insolvency resolution process was filed on 9th July, 2025, the moratorium under Section 96 of IBC was triggered, and the DRT ought not to have proceeded any further with regard to the proceedings initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. Reliance was placed on judgment of the Division Bench of this Court in the case of "Arrow Business Development Consultants Pvt. Ltd. Vs Union Bank of India & Ors." (judgment and order dated 10th December, 2025 passed in Writ Petition No.11132 of 2025.)

4. Perusal of the aforesaid judgment and Sections 95 and 96 of the IBC, does make it abundantly clear that upon initiation of the insolvency resolution process, the moratorium under Section 96 of the IBC indeed is triggered.

5. But, the learned counsel appearing for Respondent No.1- Bank relied upon certain observations made by a Division Bench of this Court in the case of "Bank of Baroda Vs Union of India" (order dated 3rd May, 2024) passed in Writ Petition (L) No.34152 of 2023, which stated that the mere e-filing of an application before the NCLT would not trigger the

moratorium under Section 96 of the IBC, particularly when such an application suffers from defects. It was submitted that unless the procedure contemplated under Rule 63 of the NCLT Rules was complied with, such an application could not be treated as having been validly filed for the purposes of Section 96 of the IBC. By referring to the document pertaining to case status filed along with the petition, it was submitted that although the initial filing appeared to be on 9th July, 2025, the application was refiled on 31st October, 2025, and in the meanwhile, possession was already taken on 16th September, 2025, and the auction sale was also completed on 24th October, 2025. In other words, it was emphasized that the petitioners deliberately allowed the entire process of possession being taken over and auction sale being conducted and thereupon, the petitioners sought to take shelter under Section 96 of the IBC.

6. Having considered the rival submissions, we find that the question as to whether the application before the NCLT filed by the creditor was properly filed or not and whether resort to Rule 63 of the NCLT Rules was necessary in the facts of the said case would be clear only from the record of the NCLT. For the said purpose, a report can be called from the NCLT.

7. But, there can be no quarrel with the proposition that moratorium under Section 96 of the IBC indeed is triggered when such an application for initiating the insolvency resolution process is filed before the NCLT. In the present case, if the case status document is to be read in its entirety, it

comes to light that upon the application before the NCLT being refiled on 31st October, 2025, it was found to be defect-free and it was eventually registered on 4th November, 2025. Even if this date is to be taken as the date of valid filing of the application before the NCLT, the moratorium under Section 96 of the IBC would indeed be triggered. In such a situation and particularly in the light of the fact that the pendency of the application before the NCLT was stated in the Securitization Application and it was clearly brought to the notice of the DRT at the time of hearing of the applications, upon which the impugned orders were passed, the DRT ought to have discussed the consequence of the pendency of the proceedings before the NCLT.

8. The impugned order shows that there is no discussion on this aspect of the matter.

9. Therefore, we are of the opinion that the petitioners have made out a *prima facie* case in their favor for limited interim relief till the next date of listing, by which time, the respondents can file their reply affidavit and a report can be called from the NCLT with regard to the exact nature of filing/refiling process undertaken when one of the creditors had filed the aforesaid application before the NCLT.

10. Issue a notice returnable on 28th February, 2026. Mr. Motwani, learned counsel waives notice on behalf of Respondent No.1. The

petitioners are directed to serve Respondent Nos.2 and 3 additionally by way of private service and file affidavit of service before the next date of listing. Reply affidavits, if any, be filed before the returnable date.

11. The NCLT, through its Office, shall submit a report in respect of application bearing C.P. (IB)/1174(MB)2025, giving details about the date of initial filing, as to whether the application after initial filing was dismissed due to defects and if so, whether resort to appeal under Rule 63 of the NCLT Rules was taken and as to when the application of the creditor Mrs. Harsha Shetty, Proprietor of The Style and Design Company, was eventually registered for being listed before the NCLT. Such a report be submitted in this Court on or before 16th February, 2026. The Registry shall send a copy of this order to the office of the NCLT, calling for the report.

12. In the light of the observations made hereinabove, till the next date of listing, parties shall maintain *status quo* with regard to the subject properties.

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

Sweety