

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.813 OF 2026
IN
WRIT PETITION NO.16499 OF 2025

Reliance Asset Reconstruction Co. Ltd. ... Applicant

In the matter between:

Reliance Asset Reconstruction Co. Ltd. ... Petitioner

Vs.

Union of India through Ministry of Corporate
Affairs and others ... Respondents

Mr. Charles Desouza a/w. Mr. Aayush Kothari, Mr. Vinay Deshpande, Rupak Sawangikar and Mr. Ajay Deshmane i/b. V. Deshpande & Co. for Applicant.

Mr. Mayur Khandeparkar a/w. Mr. Mandar Soman, Mr. Swapnil Balajiware and Mr. Omkar Kanegaonkar i/b. Mr. Vivek Phadke for Respondent Nos.2 to 6.

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

DATE : JANUARY 30, 2026

P.C. :

. Heard Mr. Desouza, learned counsel for the applicant (original petitioner).

2. The applicant has approached this Court by way of the present interim application filed in a disposed of writ petition seeking the following reliefs:-

“(a) That this Hon’ble Tribunal be pleased to declare that the interim moratorium is inapplicable to the subject property since the property stood transferred to Respondent No.7 on 12.03.2025 prior to the interim moratorium coming into force on 17.01.2026;

(b) That pending hearing and disposal of this Application, this Hon’ble Court be pleased to stay the effect and operation of the order dated 27.06.2025 passed by the Hon’ble Debts

Recovery Tribunal-III, Mumbai and permit the Petitioner to take appropriate steps under SARFAESI Act, 2002;

(c) That pending hearing and disposal of this Application, this Hon'ble Court be pleased to direct the Tahsildar to take physical possession of the subject property in accordance with the order dated 13.03.2020 passed by the Hon'ble District Magistrate under Section 14 of the SARFAESI Act, 2002 and to handover the same to the Authorized Officer of the Petitioner / Applicant and / or to the Respondent No.7;

(d) Ad-interim reliefs in terms of prayer (a) to (c) hereinabove.”

3. The instant application has been filed in the backdrop of orders passed by this Court in the writ petition.

4. The writ petition was filed in order to challenge an order dated 27.06.2025 passed by the Debts Recovery Tribunal (DRT), whereby interim order in favour of the borrower (respondent herein) continued to operate awaiting orders on the stay application filed in a pending securitization application. In the writ petition, the petitioner also alternatively prayed for a direction to the DRT to expeditiously dispose of the pending interim applications in a time bound manner.

5. When the writ petition was taken up for consideration on 10.12.2025, only the alternative prayer for time bound disposal of the pending interim applications before the DRT was pressed on behalf of the applicant. Accordingly on 10.12.2025, a Division Bench of this Court (Coram: R. I. Chagla and Farhan P. Dubash, JJ.) disposed of the writ petition, directing that the pending interim applications before the DRT shall be disposed of expeditiously and in any event on or before 07.01.2026. It was directed that the writ petition would be listed for compliance on 12.01.2026.

6. On 12.01.2026 when the writ petition came up before this Bench,

it was found that the interim applications were still pending before the DRT. In that light, a direction was issued that the said applications would be taken up for consideration and hearing on the next date of listing before the DRT i.e. 16.01.2026 and that the applications would be disposed of on or before 23.01.2026.

7. It is the case of the applicant that in the meanwhile, in a most mischievous manner, the respondent borrower filed an application before the National Company Law Tribunal (NCLT) under Section 94 of the Insolvency and Bankruptcy Code, 2016 (IBC), claiming that a moratorium operated. The said application was filed before the NCLT on 17.01.2026.

8. Consequently on 19.01.2026, the DRT adjourned the hearing, observing that a moratorium was then pending in the matter. As a consequence, the direction issued by this Court in the subsequent order dated 12.01.2026 in the disposed of writ petition, directing that the pending interim applications would be heard and disposed of by the DRT on or before 23.01.2026 could not be complied with. The petitioner is seriously aggrieved with the approach adopted by the DRT. It is contended that in this backdrop, this Court may consider allowing the instant application. It is specifically prayed that this Court may declare that the interim moratorium is inapplicable with regard to the subject property and a stay is also sought of the order dated 27.06.2025 passed by the DRT.

9. Insofar as the order dated 27.06.2025 of the DRT is concerned, this very order was impugned in the writ petition and the applicant consciously chose to press only the alternative prayer, while principal prayer for setting aside the order dated 27.06.2025 was given up. On this short ground, prayer clause (b) in the present interim application cannot be considered.

10. As regards the declaration sought as per prayer clause (a) in the application, we find substance in the contention raised on behalf of the respondent borrower that even if the applicant has a genuine grievance with regard to the approach adopted by the respondent borrower and the manner in which the DRT passed the order dated 19.01.2026, such a grievance cannot be raised in an interim application filed in the disposed of writ petition. In this context, reliance was placed on judgements of the Supreme Court in the cases of *State of Uttar Pradesh Vs. Brahm Datt Sharma and another*, (1987) 2 SCC 179 and *Ajay Kumar Jain Vs. State of Uttar Pradesh and another* [order dated 09.12.2024 passed in **Miscellaneous Application Diary No.39665 of 2024 in Writ Petition (C) No.429 of 2020**].

11. In the case of **State of Uttar Pradesh Vs. Brahm Datt Sharma and another** (*supra*), the Supreme Court observed as follows:-

“10. The High Court's order is not sustainable for yet another reason. Respondents' writ petition challenging the order of dismissal had been finally disposed of on 10.8.1984, thereafter nothing remained pending before the High Court. No miscellaneous application could be filed in the writ petition to revive proceedings in respect of subsequent events after two years. If the respondent was aggrieved by the notice dated 29.1.86 he could have filed a separate petition under Art. 226 of the Constitution challenging the validity of the notice as it provided a separate cause of action to him. The respondent was not entitled to assail validity of the notice before the High Court by means of a miscellaneous application in the writ petition which had already been decided. The High Court had no jurisdiction to entertain the application as no proceedings were pending before it. The High Court committed error in entertaining the respondent's application which was founded on a separate cause of action. When proceedings stand terminated by final disposal of writ petition it is not open to the Court to reopen the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. If this principle is not followed there would be confusion and chaos and the finality of proceedings would cease to have any meaning.”

12. In the case of **Ajay Kumar Jain Vs. State of Uttar Pradesh and another** (*supra*), in paragraph 15, it was observed as follows:-

“15. In fact, the Court has no jurisdiction to entertain such application as no proceedings could be said to be pending before it. When proceedings stand terminated by final disposal of the writ petition be it under Article 32 of the Constitution or Article 226 of the Constitution before the High Court, it is not open to the Court to re-open the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. If this principle is not followed, there would be confusion and chaos and the finality of the proceedings would cease to have any meaning.”

13. A perusal of the aforesaid judgements indeed shows that the Supreme Court has deprecated the practice of High Courts entertaining miscellaneous applications in disposed of petitions for considering grievance in respect of fresh cause of action that has arisen subsequent to the order disposing of the petitions. An exception is carved out by the Supreme Court in the said judgements to the effect that miscellaneous applications can indeed be filed in disposed of petitions and proceedings where a clarification or a modification of the order is sought.

14. Applying the said position of law to the facts of the present case, we find that the relief sought on behalf of the applicant as per prayer clause (a) of the instant application cannot be entertained in this interim application filed in the disposed of writ petition. While the applicant may have strong grounds on facts and law to challenge the approach adopted by the DRT and also the order dated 19.01.2026 observing that a moratorium is pending in the matter, but the applicant is expected to take recourse to remedies in accordance with law so as to seek the relief that is sought to be prayed for in the instant interim application.

15. The learned counsel for the applicant is at pains to point out that, in the bargain, the direction issued by this Court not once but twice for disposing of the pending interim applications before the DRT has not

been complied with and therefore, this Court in the disposed of writ petition can also exercise power to entertain the prayer as made in prayer clause (a) of the present interim application.

16. We are unable to agree with the said submission, simply for the reason that even if the understanding of the DRT with regard to the applicability of the moratorium may be erroneous in the opinion of the applicant, it is an undeniable fact that the respondent borrower has indeed filed an application before the NCLT under the provisions of the IBC and the effect thereof is required to be taken into consideration by the DRT.

17. In that view of the matter, the applicant is at liberty to take appropriate remedial measures to challenge the order dated 19.01.2026 or subsequent orders that may be passed by the DRT in appropriate proceedings in accordance with law. But, this Court in the instant interim application filed in the disposed of writ petition would not be able to exercise power to entertain such a prayer.

18. In view of the above, the interim application is dismissed with liberty to the applicant to seek remedy in accordance with law.

19. It is made clear that this Court has expressed no opinion on the merits of the contentions of the rival parties.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)