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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) (COMM) 22/2026 & CM APPL. 8596/2026**

BANK OF MAHARASHTRAAppellant

Through: Mr Ravi Raghunath Vachher &
Mr Arjun R Vachher, Advs.

versus

STATE BANK OF INDIA & ORS.Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **09.02.2026**

CM APPL. 8597/2026 [*for condonation of 5 days delay in re-filing the appeal*]

1. By way of the present application, the Applicant/Appellant seeks condonation of delay of 05 days in re-filing of the present appeal.

2. For the sufficient reasons stated in the application, the delay is condoned.

3. Accordingly, the present application stands disposed of.

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4. By way of the impugned *ex-parte* order dated 23.12.2025 passed in O.M.P. (I) (COMM,) no. 535/2025., the learned Single Judge has *ex-parte* restrained the Appellant from taking possession of property bearing No.63, Block A, Sector-8, Dwarka, Delhi-110077. The relevant extract is reproduced as under: -

“ 2. The brief facts of the case are that the respondent Nos. 2,



3 and 4 have created a mortgage of the above said property vide memorandum for recording creation of mortgage by deposit and title deeds. The petitioner advanced a loan of Rs. 4.5 crores to respondent Nos. 2, 3 and 4.

3. Ms. Bhargava, learned counsel for the petitioner states that since the respondent Nos. 2, 3 and 4 failed to repay the loan amount, the petitioner issued notice under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") and has already filed an original application before the DRT-1, Delhi.

4. However, respondent No. 1 is another bank which may have advanced loan to respondent Nos. 2, 3 and 4 and the same property has been mortgaged to the respondent No. 1.

5. The petitioner has now come to know that respondent No. 1 has issued an auction notice in the newspaper, despite the property being mortgaged with the petitioner bank and the original title deeds of the property being in the possession of the petitioner.

6. Ms. Bhargava, learned counsel, relies on Section 11 of SARFAESI Act to invoke the jurisdiction of this Court under Section 9 of the Arbitration and Conciliation Act, 1996.

7. For the said reasons, issue notice to the respondents through all modes, including electronic, on the petitioner taking steps within 2 weeks from today, returnable on 20.02.2026.

8. Prima facie, the petitioner has advanced a loan of about Rs. 4.5 crores which is outstanding and a sum of about Rs. 5 crores is due and payable as of today by respondent Nos. 2, 3 and 4.

9. In case the auction is permitted to be carried on, the petitioner will be left remediless as the property which is mortgaged with the petitioner would be auctioned.

10. Balance of convenience lies in favour of the petitioner and if interim orders are not passed, the petitioner would suffer irreparable damage and loss which cannot be compensated in terms of money.

11. For the said reasons, the respondent No. 1 is restrained from taking possession of property bearing No. 63, Block A, Sector 8, Dwarka and auctioning the property."

5. It has been pointed out that the Petition under Section 9 of the Arbitration and Conciliation Act, 1996 is pending before learned Single Judge and the Appellant is yet to enter appearance. Next date of hearing before the learned Single Judge is 20.02.2026.



6. Keeping in view the aforesaid facts and that the impugned order is merely an interim order which was passed after recording that irreparable loss would occur to the Respondent if the Appellant is not restrained from taking possession of the property bearing *No.63, Block A, Sector-8, Dwarka, Delhi-110077*, this Bench does not find it appropriate to interfere with the impugned order at this stage.

7. However, if the Appellant files an application for vacation of *ex-parte* stay, we request the learned Single Judge to decide the same expeditiously, preferably within this month, that is, in the month of February, 2026.

8. The Appeal is disposed of in the aforesaid terms. Pending application also stands disposed of.

ANIL KSHETARPAL, J

AMIT MAHAJAN, J

FEBRUARY 9, 2026

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