IN THE HIGH Court OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7153 OF 2026
IN
WRIT PETITION NO. 9746 OF 2026

Manojkumar Sureshchand Lunkad and others … Petitioners

Versus

Punjab National Bank and others … Respondents

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Mr. R.D. Soni, a/w Ms. Sonali Jain and Ms. Anushree Talekar, for Petitioners.

Ms. Sudha Kolati, for Respondent Nos. 1 and 2.

Mr. B. V. Samant, Addl. G.P., a/w Ms. Tanu N. Bhatia, AGP for Respondent/State.

Mr. Charles De'souza, a/w Mr. Rupak Sawangikar, a/w Ms. Pragati Gothi, i/b Puneet Gogad for Respondent Nos. 3 to 5.

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

DATE : 09th SEPTEMBER 2026.

PC:

1. This application is moved the light of an order passed by the Supreme Court yesterday, i.e., 08/09/2026, in Special Leave Petition (Civil) No. 31856 of 2026, whereby the Petitioners were permitted to file an application seeking interim relief in the context of a notice issued for taking physical possession of the subject property (secured asset) today, i.e. 09/09/2026.

2. The said Special Leave Petition was filed against the order dated 02/09/2026 passed by this Court in the present writ petition, whereby

reasons were recorded while rejecting the prayer for interim relief made by the Petitioners. In the order dated 02/09/2026, this Court had recorded detailed reasons as to why the Petitioners did not deserve interim relief in the facts and circumstances of the present case.

3. The order of the Supreme Court dated 08/09/2026 passed in Special Leave Petition (Civil) No. 31856 of 2026 reads as follows:

> *"1. On an oral mention made by learned counsel for the Petitioners, the matter is taken on board.*
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> *2. In view of the fact that a notice re:taking possession of the house has been issued yesterday, the High Court is requested to hear the Petitioners' prayer for interim relief tomorrow, i.e., 09.09.2026, provided that the Petitioners prefer an application seeking such a relief before the High Court today itself, if not filed already.*
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> *3. It is clarified that we have not expressed any opinion on the merits of the case.*
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> *4. The Special Leave Petition is, accordingly, disposed of.*
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> *5. As a result, the pending interlocutory application also stands closed."*

4. It is to be noted that in paragraph 3 of the above quoted order, the Supreme Court clarified that it has not expressed any opinion on the merits of the case.

5. In such circumstances, we put a query to the learned counsel for the Petitioners as to what was the change in circumstance that required the prayer made in the present application to be considered, which is virtually seeking a review of our order dated 02/09/2026, whereby interim relief was

specifically rejected. In response, the learned counsel for the Petitioners submitted that after the said order dated 02/09/2026 was passed, on 07/09/2026, the Resident Naib Tehsildar and Executive Magistrate had issued notice dated 07/09/2026, directing that possession of the secured asset would be taken on 09/09/2026. According to the learned counsel for the Petitioners, this is the circumstance warranting filing of the present application.

6. According to us, the aforesaid notice annexed to this application is a fallout and a consequence of the prayer for interim relief being rejected by the reasoned order by this Court on 02/09/2026. Thus, issuance of the notice for taking physical possession cannot in itself be a circumstance to re-agitate the question of interim relief in the present writ petition.

7. The learned counsel for Respondent Nos.1 and 2, i.e., the bank and its authorized officer and the learned counsel for Respondent Nos.3 to 5, being the auction purchasers, have opposed the prayer made in the present application. The learned counsel have tendered additional affidavits in order to place before this Court the chronology of events that took place after the order dated 02/09/2026 was passed by this Court rejecting interim relief in the writ petition. The said affidavits are taken on record. Copies of the affidavits have been served on the learned counsel for the Petitioners today who seeks time to respond to the said affidavits.

8. In the affidavits filed on behalf of the said Respondents, serious

allegations have been made against the Petitioners. It is alleged that after interim relief was rejected by order dated 02/09/2026, on 03/09/2026, when the officers of the Respondent No. 1 Bank reached the site for taking physical possession of the subject flat (secured asset), the Petitioners allegedly physically obstructed the officials of the Respondent No. 1 Bank from taking possession of the secured asset. It is alleged that while the exercise was about half completed, an instruction was allegedly received from the Collector to the Naib Tehsildar not to proceed further with the said exercise. In the affidavit filed on behalf of the auction purchasers, it is alleged that the Collector acted at the behest of higher authorities of the State Government. These are allegations which the Petitioners would like to meet and an opportunity certainly needs to be granted to the Petitioners. But, it is not disputed that possession as attempted by the Respondent No. 1 Bank and its officials could not be taken on 03/09/2026.

9. It is also alleged that the Collector kept a 'hearing' of the matter on 04/09/2026 and hence, ultimately physical possession could not be taken and the said notice dated 07/09/2026 was issued by the Resident Naib Tehsildar and Executive Magistrate for taking physical possession today, i.e., 09/09/2026.

10. We are of the opinion that, not only the Petitioners should be given an opportunity to respond to such serious allegations, but the Collector and Resident Naib Tehsildar should be directed to be made parties to the present

writ petition, so that the said officers also have a fair opportunity to meet the said serious allegations made by the Respondents in this petition. The Collector and Resident Naib Tehsildar cannot be condemned behind their back and therefore, we intend to issue appropriate directions for adding the Collector and Resident Naib Tehsildar as party Respondents to the present writ petition.

11. Coming to the prayer made in the present application, we are of the opinion that the order dated 02/09/2026 passed by this Court is a detailed reasoned order, wherein this Court came to a considered conclusion that interim relief could not be granted to the Petitioners. The said order reads as follows:

> *". In this petition, notice was issued on 03.08.2026. The pleadings are complete.*
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> *2. The petition was circulated in the morning session urgently on the ground that physical possession of the subject flat will be taken tomorrow (03.09.2026) as per notice issued in that regard.*
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> *3. In the morning session, the learned counsel for the Petitioners was held up in another Court, and therefore, the petition was taken up in the afternoon session at 3:00 p.m.*
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> *4. The learned counsel for the Petitioners is pressing for interim relief and in support thereof, he has invited attention of this Court to the impugned order dated 23.07.2026 passed by the Debts Recovery Appellate Tribunal (DRAT). It is submitted that crucial aspects of the matter raised on behalf of the Petitioners were ignored by the DRAT and it can be said that the issues going to the root of the matter were not effectively considered and dealt with by the DRAT while dismissing the appeal filed by the Petitioners.*
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> *5. In this context, it was submitted that the requirements of Rules 8 and 9 of the Security Interest (Enforcement) Rules 2002 framed under the Securitisation and Reconstruction of Financial Assets and*

Enforcement of Security Interest Act, 2002 (Securitisation Act) were not followed. It was submitted that the sale notice, itself, was defective, and therefore, all consequential steps taken in the matter by the Respondent bank (secured creditor) were rendered illegal, which the DRAT failed to appreciate. It was further submitted that the valuation reports on the basis of which the reserved price of the subject flat was fixed was also untenable in the face of the fact that the valuation reports indicated depressed value of the subject flat. It was submitted that if an opportunity is granted, it can be demonstrated before this Court that the order of the DRAT as well as the order of the Debts Recovery Tribunal (DRT), both, deserve to be set aside in the facts and circumstances of the present case.

6. The prayer for interim relief is vehemently opposed by the Respondent bank (secured creditor) as well as the auction purchasers i.e. Respondent Nos.3 to 5. It is submitted that the Petitioners are chronic defaulters and that, they had taken credit facilities from the Respondent No.1 Bank by mortgaging other properties as well and that they have been proceeded against in respect of the said defaults also.

7. It is further submitted that the points sought to be raised before the DRAT were not taken in the original proceeding i.e. the securitisation application before the DRT, and therefore, the Petitioners cannot be permitted to argue such points for the first time either before the DRAT or in writ jurisdiction before this Court. It is further brought to the notice of this Court that the subject auction that eventually led to the auction sale of the flat and the auction purchasers coming into picture, was the third attempt at auction sale. The first two attempts did not succeed and all through the Petitioners were aware about the auction sale proceedings undertaken by the Respondent No.1 Bank. It was further submitted that the securitisation application was filed after the sale certificate was issued in favour of the Respondents - auction purchasers.

8. It was further brought to the notice of this Court that the Respondent Bank had specifically pointed out in its affidavit in reply in the appeal before the DRAT that the Petitioners have other properties, particularly another flat in respect of which also, the Respondent No.1 bank was constrained to take action under the Securitisation Act. It was brought to the notice of the DRAT that symbolic possession of the subject flat was also taken and on this basis, it was submitted that the plea taken on behalf of the Petitioners that if physical possession of the subject flat is taken, they would be rendered homeless, is not supported by the material on record.

9. We have considered the rival submissions. The learned counsel for the Petitioners is pressing for urgent interim relief on the ground that if physical possession of the subject flat is taken, serious prejudice would be caused to Petitioner Nos.1 and 2, as they would be rendered homeless. Having perused the documents on record, we are of the opinion that the Petitioners have failed to make out a prima facie case in their favour that absence of interim relief in the present case, will cause serious prejudice as projected on their behalf in oral arguments before this Court.

10. We do find substance in the contention raised on behalf of the Respondent No.1 Bank that the Petitioners are indeed presently in physical possession of another flat in respect of which the Respondent No.1 bank has taken steps under the Securitisation Act and as on today, only symbolic possession thereof has been taken. Hence, we are not impressed with the arguments made on behalf of the Petitioners that in the absence of interim relief in the present writ petition, they would be rendered homeless.

11. Apart from this, in the context of examining the contentions raised on behalf of the Petitioners with regard to the question of prima facie case, we have perused the documents and material on record. Prima facie, we find that the contention sought to be raised on behalf of the Petitioners regarding violation of statutory rules was not specifically pleaded in the original proceeding i.e. the securitisation application before the DRT. General and vague grounds were raised and on the basis of the same, an attempt was made before the DRAT to specifically assail the action taken by the Respondent No.1 as being in violation of the aforementioned Rules framed under the Securitisation Act.

12. The arguments pertaining to depressed valuation of the subject flat are to be appreciated in the backdrop of the admitted position on record that the first two attempts at auction sale by the Respondent No.1 Bank were not even challenged by the Petitioners. The securitisation application was admittedly filed after the auction purchasers came into picture and sale certificate dated 23.11.2020 was issued in their favour.

13. After having approached the DRT by filing the securitisation application at such a stage, the Petitioners are now seeking to assail the concurrent orders passed by the DRT and DRAT on the ground of defective valuation of the subject flat. We are of the opinion that when the writ petition is taken up for hearing and disposal, the said aspect can be considered and decided.

> *14. It is asserted on behalf of the Respondent No.1 Bank that if the amounts deposited by the Petitioners before the DRAT as a pre-condition for entertaining the appeal are not taken into account, as on today, the amount due from the Petitioners would be in the range of about Rs.5.68 crores. This is another factor taken into consideration by this Court in declining the prayer for interim relief fervently pressed on behalf of the Petitioners.*
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> *15. Even according to the Petitioners, the amounts deposited pertaining to pre-deposit before the DRAT come to about Rs.2.06 crores. Much emphasis was placed on the said aspect of the matter. But, since the total amount due, as on today, indicated by the Respondent Bank is in excess of Rs.5.68 crores, the said deposited amount itself cannot be a ground to press for interim relief.*
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> *16. Even otherwise, a crucial aspect of the matter appears to be operating against the Petitioners. In the case of Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and others, (2024) 2 SCC 1, in the light of the Petitioners having failed to tender the entire amount of dues with all costs and charges to the Respondent No.1 Bank (secured creditor) before publication of the auction notice, the right of redemption of the mortgage already stands extinguished / waived. Since the securitisation application in the present case was admittedly filed after the auction was conducted and even the sale certificate dated 23.11.2020 was issued, by operation of law, the Petitioners cannot now claim a right to redeem the property. This is an additional factor operating against the Petitioners.*
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> *17. In view of the above, list the writ petition for further consideration on 07.10.2026, High on Board.*
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> *18. The prayer for interim relief is rejected."*

12. As noted hereinabove, the actual exercise of taking physical possession of the secured asset is a natural consequence and fallout of rejection of interim relief by the aforesaid above quoted reasoned order passed by this Court on 02/09/2026. We see no extraordinary circumstance demonstrated by the Petitioners to have a re-look at our order and the reasons recorded in the order dated 02/09/2026 are self speaking.

13. The learned counsel for the Petitioners further submitted that the notice dated 07/09/2026 indicated that physical possession will be taken on 09/09/2026, thereby showing that it was a notice only of two days.

14. The learned counsel for the Respondents submit that in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act) and the Rules framed thereunder, on an order passed by the Competent Magistrate under Section 14 of the Securitisation Act, there is no statutory period prescribed and the conduct of the Petitioners herein indicates that the aforesaid issue is being raised only with a view to avoid the inevitable.

15. We have perused the Securitisation Act and Rules. We find that there is no such Rule prescribing a particular time period. It is to be noted that in the present case, the Competent Magistrate had passed the order under Section 14 of the Securitisation Act as far back as on 24/12/2019 and the same is awaiting execution for the past almost seven years. This is a factor to be taken into consideration.

16. In view of the above, we find no merit in the present application and accordingly, it is dismissed. The Petitioners are directed to add the Collector, Pune and the Resident Naib Tehsildar, Pune, as party Respondents in this writ petition. The amendment shall be carried out forthwith.

17. Issue notice to the newly added Respondent No. 6 – Collector and Respondent No. 7, Resident Naib Tehsildar, returnable on 07/10/2026, when

the writ petition is directed to be listed. Learned AGP waives notice on behalf of the newly added Respondents. The said Respondents shall file reply affidavits on or before 30/09/2026. The affidavits shall respond to the allegations made by the Respondents in the affidavits taken on record today.

18. The Petitioners as well as Respondents are directed to serve copies of the papers on the newly added Respondents, so that a fair chance is given to the said newly added Respondents to file a comprehensive affidavit.

19. The Petitioners are also permitted to file an additional affidavit to respond to the allegations made in the affidavits of the Respondents taken on record today. The Petitioners may file their affidavit on or before 30/09/2026, with advance copies being served on all the parties.

20. List on 7th October 2026.

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