

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12753 OF 2026**

Animesh Mishra,

Through POA holder Ashok Mishra and another ... Petitioners

vs.

Punjab National Bank and others ... Respondents

Mr. Ayush Kothari a/w. Mr. Vinod Kothari and Ms. Priya Singh, i/b. M/s. Apex Law Partners for petitioners.

Ms. Savita Nangare, i/b. Law Focus for respondent No.1 – bank.

Ms. Manasi Pawar a/w. Mr. Mohit Shamdasani (through VC), i/b. Mr. Rahul Motkari for respondent Nos.2 and 3 – auction purchasers.

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

DATE : 28th SEPTEMBER, 2026

P.C. :

. Heard learned counsel for the parties.

2. This is a fresh petition listed urgently today, as the Tahsildar, Thane has issued notice dated 10.09.2026, fixing the date for taking physical possession of the secured asset for today i.e. 28.09.2026 at 12:30 p.m.

3. The learned counsel for the petitioners (borrowers) submits that they have filed an appeal before the Debts Recovery Appellate Tribunal (DRAT), to challenge an order dated 31.08.2026 (impugned order) passed by the Debts Recovery Tribunal – II, Mumbai (DRT), who is incharge of DRT – III, Mumbai. They have also filed two applications viz. Interim Application No.557 of 2026 for seeking waiver of pre-deposit and Interim Application (Diary) No.1694 of

2026 for seeking stay of the aforesaid impugned order passed by the DRT. The DRAT has fixed hearing on both the applications on 04.11.2026.

4. It is submitted that the said date has been granted, despite a *praecipe* moved before the DRAT on 21.09.2026, informing that as per the aforesaid notice issued by Tahsildar, physical possession of the secured asset is to be taken by respondent No.1 – bank (secured creditor) today i.e. on 28.09.2026. It is submitted that if the said exercise is completed, the application seeking stay would be rendered infructuous.

5. It is further brought to our notice that during the course of miscellaneous appeal being filed before the DRAT in an earlier round, as per an order dated 02.03.2023 passed by the DRAT, an amount of ₹ 60 lakhs was deposited towards pre-deposit in two installments i.e. ₹ 35 lakhs on 02.03.2023 and balance ₹ 25 lakhs on 17.03.2023. The said amount of ₹ 60 lakhs constitutes more than 35% of the outstanding dues, as claimed by respondent No.1 – bank and the same is still lying in deposit with the DRAT.

6. In such circumstances, it is submitted on behalf of the petitioners that they at least have a right of being heard on their applications for waiver of pre-deposit and for stay, before the exercise of taking physical possession of the secured asset is undertaken by respondent No.1 – bank. It is submitted that therefore, this Court may consider granting appropriate relief to the petitioners.

7. The learned counsel appearing for respondent No.1 – bank and the learned counsel appearing for respondent Nos.2 and 3 – auction

purchasers, have vehemently opposed the contentions raised on behalf of the petitioners. It is submitted that a long period of 5 years has gone by and the respondents are still struggling to take physical possession of the secured asset. Huge amount is due from the petitioners and that they have repeatedly defaulted. It is further submitted that the DRT, by the said order, has dismissed the securitisation application on merits and therefore, this Court may not show any indulgence to the petitioners.

8. We have considered the rival submissions. We find substance in the contention raised on behalf of the petitioners that if the exercise of taking physical possession of the secured asset is completed today in the afternoon, as per the said notice, the application for stay filed in the pending appeal before the DRAT, would be rendered infructuous. We also find that the petitioners are pursuing the application for waiver of pre-deposit, in the face of the admitted fact that the petitioners have deposited the aforesaid amount of ₹ 60 lakhs in the context of the earlier miscellaneous appeal filed by the petitioners, which is still lying in deposit with the DRAT.

9. Hence, it would only be appropriate that an opportunity is made available for the petitioners to argue their case for waiver of pre-deposit and for stay, in accordance with law, before the actual exercise of taking physical possession of the secured asset is completed by respondent No.1 – bank, to handover the same to respondent Nos.2 and 3 – auction purchasers.

10. We are of the opinion that the petitioners can be granted an opportunity of being heard in the said interim applications, which are now said to be listed on 04.11.2026 before the DRAT. It would be

appropriate that the applications are taken up at the earliest by the DRAT.

11. As all the respondents are represented by counsel, we are inclined to dispose of the writ petition today itself, by issuing appropriate directions that should not prejudice either party.

12. In view of the above, the writ petition is disposed as follows:

- (a) The DRAT is directed to take up Interim Application No.557 of 2026 seeking waiver of pre-deposit and Interim Application (Diary) No.1694 of 2026 seeking stay of the impugned order, filed in the appeal filed by the petitioners i.e. Appeal (Diary) No.1605 of 2026, on 05.10.2026 in the urgent category;
- (b) the said applications shall be heard and appropriate orders shall be passed by the DRAT on or before 14.10.2026;
- (c) the DRAT shall consider the said applications on their own merits and the rights and contentions of the parties in that regard, are kept open;
- (d) in the light of the aforesaid directions, the date for taking physical possession of the secured asset is fixed for 21.10.2026 at 12:30 p.m., instead of today i.e. 28.09.2026;
- (e) the Tahsildar, Thane, who issued notice dated 10.09.2026, shall be informed by respondent No.1 – bank about the aforesaid direction, so that necessary arrangements can be made for completing the exercise of taking physical possession of the secured asset on 21.10.2026;
- (f) it is made clear that the occasion to take physical possession of the secured asset on 21.10.2026 shall arise, subject to orders that may be passed by the DRAT on the applications for stay and for waiver of pre-deposit, moved by the petitioners in the

pending appeal;

- (g) needless to say, the respondents shall not be prejudiced by the directions given hereinabove and the DRAT shall proceed strictly on merits and in accordance with law.

13. It is made clear that this Court has not heard the case on merits and no comment is being made on the merits and contentions of either parties.

14. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)