BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 165/2026 (Stay)
In
Regular Appeal No. 08/2026

Between

Amol Kashinath Gawade & Anr. … Appellant/s
V/s.
The Authorised Officer, …Respondent/s
Union Bank of India

-: Order dated: 03/07/2026: -

Present:

Mr. Gaurang Kinkhabwala along with Mr Ronak Shah & Mr. M . Satwilkar & Ms. Sonali Jain & Ms. Anushree Talekar, Advocate for Appellants.

Mr. Nainesh Amin, Advocate for Respondent No.1

Mr. Shadab Jan, i/b Mr. Parth P Shah, Advocate for Respondent Nos. 2 & 3.

2. Vide order dated 04.03.2026 passed in Writ Petition No. 17518/2025 filed by the Auction Purchaser, i.e., Respondent Nos. 2 and 3 herein, the Hon'ble High Court directed this Appellate Tribunal to decide the application for interim relief within a time-bound period. The said period was subsequently extended by the Hon'ble High Court vide order dated 23.04.2026.

3. The Learned Counsel appearing for all parties would submit that, in the interest of justice, the present Appeal against the impugned

order itself may be finally decided instead of application for interim relief.

4. Accordingly, with the consent of Learned Counsel appearing for the parties, the main Appeal is heard.

5. Brief facts of the case are that the Appellant/Borrower filed Securitisation Application (Diary) No. 754/2024 challenging the Sale Notice dated 16.07.2024 scheduling the auction on 14.08.2024, along with Delay Condonation Application being M.A. No. 15/2025. The said M.A. No. 15/2025 was heard by the DRT, Pune and rejected the same vide impugned order dated 08.04.2025.

Aggrieved thereby, the present Appeal has been preferred.

6. The Learned Counsel for the Appellant/Borrower would submit in support of the Appeal that the Appellant has sufficient cause for delay in filing of Securitisation Application on ground as under

i) That the Sale Notice dated 16.07.2024 was never served upon the Appellant/Borrower as the same was sent by registered post at an incorrect address and was returned unserved to Respondent No.1/Bank.

ii) That the notice at page No. 250 provided only 15 days' notice for sale of movable secured assets under the Security Interest (Enforcement) Rules, 2002, whereas the applicable Rules mandates a notice period of 30 days for such sale.

iii) That cause of delay in filing the Securitisation Application, was that

(a) the father of the Appellant/Borrower was suffering from serious medical ailments, including diabetes, and required continuous hospitalization and medical treatment, which engaged the Appellant/Borrower and prevented him from pursuing this legal remedy within the period of limitation.

(b) The Appellant/Borrower himself suffered severe injuries and fracture of the elbow bone requiring immediate hospitalization, prolonged medical treatment and Subsequently, surgery was advised and performed after which appellant was discharged on 30.12.2024.

(c) That the limitation period of 45 days for challenging the Sale Certificate would ordinarily commence from 31.10.2024 and expire on 14.12.2024. However, the Appellant/Borrower gained knowledge of the issuance of the Sale Certificate only upon receipt of the reply dated 25.02.2025 issued by Respondent No.1/Bank, after objections had been raised before the Revenue Authorities against mutation of the property in favour of the Auction Purchaser.

(d) The Learned Counsel for the Appellant/Borrower relied upon the medical documents pertaining to the father of the Appellant/Borrower at pages 119 to 130 and the medical records of the Appellant/Borrower at pages 122 to 130.

He would further submit that the Learned Presiding Officer, DRT, Pune committed an error of law and fact in observing that the medical documents did not specifically record advice of bed rest or indicate that the Appellant/Borrower was required to remain present for the care and treatment of his father; that, such observation overlooks the practical difficulties circumstances arising out of prolonged medical treatment and hospitalization.

(e) Learned Counsel for the Appellant would submit that the auction sale is illegal and bad in law as the EMD was deposited on 14.08.2024, i.e., on the date of auction itself, which according to the Appellant is contrary to the applicable Security Interest Rules, therefore the impugned sale is illegal and bad in law.

(f) Learned Counsel for the Appellant would further submit that the secured asset was sold at a distress value of Rs. 75,71,000/-, though the alleged market value reflected in earlier documents was around Rs. 1.62 Crores, thereby causing prejudice to the Appellant.

(g) The Learned Counsel for the Appellant would submit that the sale notice was dispatched to Village *Wagholi* instead of Village *Wadebolhai*, and therefore there was no proper service of notice upon the

Appellant.

7. Learned Counsel for Respondent No. 1 would submit that the present Appeal arises only against the order dated 08.04.2025 rejecting condonation of delay and therefore merits of the securitisation proceedings cannot be examined at this stage; that, the Appellants had prior knowledge of the auction proceedings and sale transaction and therefore their contention regarding delayed knowledge is incorrect and also submit that section 17 (1) of the SARFAESI Act prescribes a statutory period of limitation and the Tribunal has no jurisdiction to condone delay beyond the prescribed period.

8. Learned Counsel for Respondent Nos. 2 and 3 adopted the submissions advanced on behalf of Respondent No. 1.

9. Learned Counsel for Respondent Nos. 2 and 3 would submit that the S.A. was filed after considerable delay and after the Appellants had already acquired knowledge of the auction and consequential proceedings; that, objections raised before the revenue authorities establish prior knowledge of the sale proceedings.

10. Learned Counsel for Respondent Nos. 2 and 3 would further that while deciding condonation of delay, the Tribunal cannot examine merits of the auction proceedings and must confine itself only to the existence of sufficient cause; that, the delay under Section 17 of the SARFAESI Act is not condonable beyond the statutory period.

11. Considered and perused the records.

12. At the time of deciding an application for condonation of delay, the Court or Tribunal is required to examine whether sufficient cause existed which prevented the Applicant from filing the application

within the prescribed period of limitation.

13. The perusal of the impugned order dated 08.04.2025 would reflect that the DRT-Pune erred is not considering the medical papers of the father of the Appellant and his own medical papers. The observation made by the DRT-Pune that in the medical papers the Appellant was not advised bed rest, is not appropriate. It was without saying that when any person is in physical distress because of medical issues then even if bed rest not adviced, the day-to-day working of the ailing person gets seriously affected. It is also trite that while deciding the application for condoning the delay, the Court or Tribunal should not be pendantic as the rules are made to serve the end of justice and not to defeat.

Merely the fact that the Appellant had raised objections in mutation proceedings before the Revenue Authorities could not, by itself, constitute a valid ground for rejecting the application for condonation of delay, particularly when it is not established beyond doubt that the said mutation proceedings pertained to the very same subject matter involved in the present proceedings.

14. Therefore, the impugned order is not correct and sustainable in the eyes of law. Hence, Appeal No. 08/2026 is allowed.

Consequently, the impugned order dated 08.04.2025 passed by the Learned DRT, Pune is set aside. The delay in filing the Securitisation Application is condoned.

15. The Learned DRT, Pune is requested to decide the Securitisation Application on its own merits and in accordance with law.

16. The copy of the order be sent by email to the DRT-Pune.

17. The parties are directed to appear before DRT-Pune on 10.07.2026.

Sd/-
Chairperson

VKC-01