BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 447/2026 (WoD)
In
Regular Appeal Diary No. 1147/2026

Between

Mahesh Tannaya Kotiyan & Anr. … Appellant/s
V/s.
Punjab National Bank & Anr. …Respondent/s

-: Order dated: 06/08/2026: -

Present:

Mr. Gaurang Kinkhabwala along with Mr. Mukesh Dongarge & Mr. Aniket Phad, Advocate for Applicants/Borrowers.

Ms. Savita Nangare along with Mr. Vinod N, i/b M/s. Law Focus, Advocate for Respondent No.1

Ms. Janvhi Joshi along with Ms. Komal Patil, i/b Mr. Manmohan Rao, Advocate for Respondent No.2.

2. The matter is taken up for hearing by way of praecipe filed by the Applicants/Borrowers for seeking urgent relief.

3. Heard on the I.A. No. 447/2026 for waiver of pre-deposit.

4. The Learned Counsel for the Applicants/Borrowers would submit that this is an appeal against the impugned order dated 29.05.2026 whereby the Learned DRT-I, Mumbai dismissed the S.A.

No. 23/2023 in which the sale notice dated 08.06.2021 and the possession order dated 02.02.2022 passed by the Ld. District Magistrate, Raigad was challenged.

He would further submit that the Applicants/Borrowers are not needed to pay any mandatory pre-deposit as per section 18 of the SARFAESI Act as there is no debt due from them as claimed by the secured creditor.

He would further submit that the Applicants/Borrowers deposited ₹2,17,90,000/- in compliance of order dated 31.08.2023 in I.A. 573/23 in the DRT-I, Mumbai; that, this amount was deposited after issuance of the notice dated 05.04.2018 u/s 13 (2) of the SARFAESI Act and sale notice dated 08.06.2021 in these notices the amount demanded by the Respondent No.1/Bank are ₹1,33,10,175/- with further interest and ₹1,27,38,711/- respectively.

5. In reply, the Learned Counsel for the Respondent No.1/Bank would submit that the **Applicants/Borrowers deposited an amount of ₹2,17,90,000/- in compliance of the order dated 31.08.2023 but that was on application for waiver on mandatory deposit u/s 18 of the SARFAESI Act in another appeal of Applicants/Borrowers at Diary No. 1465/2023.**

She would further submit that if Applicants/Borrowers want that amount of pre-deposit u/s 18 of the SARFAESI Act, then he should move an application for withdrawal of that amount in that previous appeal and deposit the same in this present appeal.

6. Considered.

7. The submission of the Applicants/Borrowers that the amount he paid shall tantamount to discharge of his liability towards the debt due to the bank, cannot be considered at this stage in the absence of a specific reply from Respondent No.1/Bank and more particularly, in view of the fact that the property in question has already been sold to the Auction Purchaser and that pervious deposit was on wavier application in previous appeal of applicants.

In the waiver application, the Applicants/Borrowers have not pleaded any other grounds for waiver except the history of this case at different stages and different levels and no pleading to the effect of any financial hardship.

Therefore, in the considered view of this Appellate Tribunal, the ends of justice would be served with the direction to the Applicants/Borrowers to deposit 40% of the amount of the sale notice dated 08.06.2021, i.e., ₹1,27,68,711/- which comes to ₹51,07,484.40/- on or before 11.08.2026.

If Applicants/Borrowers want the previous deposit for the present appeal, they are at liberty to withdraw the same from the previous appeal and redeposit it in the present appeal, as both the appeals are different appeals

On deposit of the amount, the Registry is directed to register this appeal and interlocutory application if otherwise in order under rules.

8. At this stage, the Learned Counsel for the Applicants/Borrowers would press Application at Diary No.

1276/2026 for staying order passed by the Ld. Presiding Officer, I-I, Mumbai.

9. The Learned Counsel for the Respondent No.1/Bank oppose for grant for any stay on the Appeal is not yet registered due to non-payment of mandatory pre-deposit.

10. The Learned Counsel for the Respondent No.1/Bank relied upon the judgment dated 04.03.2026 in Writ Petition No. 15718/2025 in *Anil Kumar Pawar & Anr V/s The Authorised Officer, Union Bank of India & Ors*, the Hon'ble High Court of Bombay observed that after depositing the pre-deposit amount under section 18 of the SARFAESI Act within time, I be sent before the Ld. Registrar for registering the Appeal and Interlocutory Application. Only after registration, the I.A. for stay or appeal be heard and decided.

11. Considered and perused the record.

The relevant part of the judgment of the Hon'ble High Court of Bombay is reproduced here as under.

> "8. We find on perusal of the impugned order that it suffers from a serious procedural infirmity. The Application considered and decided in the impugned order dated 14th May 2025 was only the Application seeking waiver of pre-deposit under Section 18 of the Securitisation Act. The only prayer made on behalf of Respondent Nos. 2 and 3 before the DRAT was for such waiver on the basis of statements made in the said Application. While considering the said Application the DRAT discussed the rival submissions, made certain observations and thereupon found that the Respondent Nos.2 and 3 were required to deposit 40% of the amount due and that complete waiver from pre-deposit was not warranted. **Having reached the said conclusion the DRAT was expected to issue**

a positive direction to Respondent Nos.2 and 3 to deposit such 40% amount towards pre-deposit so that the Appeal could be registered and then take up the Application for interim relief and the Appeal for further consideration. (emphasis supplied)

9. ……………………………………………

10. We find that the aforesaid approach adopted by the DRAT suffers from serious procedural irregularity and infirmity. It appears that the DRAT proceeded on an assumption that the moment a pre-deposit direction was issued in an Application seeking waiver thereof, the interim relief would follow as a matter of course upon the amount so directed to be deposited, in fact being deposited by the Appellants (Respondent Nos.2 and 3 herein). We find that the approach of the DRAT is unsustainable."

12. In re *Anil Pawar Case (Supra)* the Hon'ble High Court has castigated the approach of DRAT of granting stay or interim relief before the registration of the appeal on deposit of mandatory pre-deposit under Section 18 of the SARFAESI Act for filing of the appeal.

It would be important to revisit Section 18 of the Act.

It reads:

"**18. Appeal to Appellate Tribunal.—**(1) Any person aggrieved, by an order made by the Debts Recovery Tribunal [under section 17, may prefer an appeal alongwith such fee, as may be prescribed] to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal:

Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower

Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. Of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. Of debt referred to in the second proviso.

(2) ……………………………………………………………………"

13. In view of the proviso to section 18 of the SARFAESI Act and observations of the Hon'ble High Court of Bombay in re "*Anil Kumar Pawar*" (*Supra*), this Appellate Tribunal is of the considered view that an appeal and application for interim relief can only be heard and decided only after registration of appeal on mandatory pre-deposit under section 18 of the SARFAESI Act. That is to say that before registration of an appeal on deposit of an amount as per section 18 of the 'Act', no Appeal or any Interlocutory Application therein can be entertained. Hence, no interim stay can be granted at this stage before registration of the Appeal and the interim stay application after depositing the mandatory amount under section 18 of the SARFAESI Act.

14. The amount shall be deposited in the form of a Demand Draft/RTGS/NEFT with the Registrar of this Appellate Tribunal.

15. As and when the said amounts are deposited, the same shall be invested in term deposits in the name of the Registrar, DRAT, Mumbai with any nationalised Bank, initially for 13 months, and thereafter to be renewed periodically.

16. With this observation, the I.A. No. 447/2026 is disposed of. The Respondent Bank is at liberty to file a reply to the grounds of the Appeal with an advance copy to the other sides.

17. If the deposit is made as stated in para 7 above on or before 11.08.2026, list the Appeal on 12.08.2026 for reporting compliance and hearing.

In the event of failure to deposit the said amount till 11.08.2026, the Appeal shall stand rejected automatically without further reference to this Appellate Tribunal.

Sd/-
Chairperson

Psa-01