

**BEFORE THE DEBTS RECOVERY
APPELLATE TRIBUNAL, AT: MUMBAI**

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 489/2026 (Stay)

In

Regular Appeal No. 55/2026

Between

Mahesh Tannaya Kotiyan & Anr.

... Appellant/s

V/s.

Punjab National Bank & Anr.

...Respondent/s

-: Order dated: 12/08/2026: -

Present:

*Mr. Gaurang Kinkhabwala, i/b Mr. Mukesh Y. Dongarge, Counsel for
Applicants/ Appellants.*

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

*Ms. Janvi Joshi along with Ms. Komal Patil & Ms. Manjula C., i/b Mr.
Manmohan Rao, Counsel for Respondent No.2/ Auction Purchaser*

2. This order shall dispose of I.A. No. 489/2026 filed by the Applicants/Appellants seeking ad-interim relief, inter alia, for restraining Respondent No.1/Bank from interfering with the peaceful possession of the Applicants/Appellants and/or dispossessing them from the secured assets, i.e. the subject matter of the present appeal.

3. The Learned Counsel for the Applicants/Appellants tenders the Pursis and submits that the Applicants/Appellants had filed Special Leave Petition (D) No. 47245/2026 before the Hon'ble Supreme Court and would submit that the order dated 11.08.2026 passed by the Hon'ble Supreme Court is yet to be uploaded on the website ; that, while declining to entertain the Special Leave Petition, the Hon'ble Supreme Court directed this Appellate Tribunal to decide the appeal filed by the Applicants/Appellants challenging the order dated 29.05.2026 passed by the Learned DRT on its own merits. The Pursis is taken on record.

4. The Learned Counsel for the Applicants/Appellants would submit that the present appeal is filed against the dismissal of Securitisation Application No. 23/2023 filed by the Applicants/Appellants; that, the said S.A. was filed mainly for relief, inter alia, to set aside and quash the Sale Notice dated 08.06.2021 ; that, the said Sale Notice is bad in law ; that, the reserve price was fixed at ₹2,23,66,000/- and the property was sold at the same price without obtaining the consent of the borrower as contemplated under Rule 9(2) ; that, as per the sanction letter of the loan, there were 18 rooms, whereas the valuation report mentions only 12 rooms ; that, the mortgage is defective ; that, the order passed under Section 14 of the SARFAESI Act is bad in law.

5. The Learned Counsel for the Respondent No.1/Bank and Respondent No.2/Auction Purchaser vehemently opposes I.A. No.

489/2026 on the ground that Respondent No.2/Auction Purchaser had filed Writ Petition No. 8601/2026 before the Hon'ble High Court of Bombay mainly with prayer of seeking police protection for taking possession and execution of the order for taking possession; that, the Applicants/Appellants were also parties to this petition ; that, after hearing the parties at length, the Hon'ble High Court allowed the said Writ Petition in terms of prayer clauses (a), (c), (e) and (f) of the petition.

6. The Learned Counsel for the Respondent No.2/Auction Purchaser would further submit that the aforesaid prayer clauses pertained to handing over possession of the secured assets purchased by the Auction Purchaser and to directing Respondent No.1/Bank to act upon the order dated 02.02.2022 passed by the District Magistrate, Raigad, for handing over possession; that, these prayers of the Respondent No.2/Auction Purchaser have been allowed, but by way of this application the Applicants/Appellants want to restrain the same which is not parties under the law.

The Learned Counsel for the Respondent No.1 and 2 would further submit that the Applicants/Appellants had raised all these arguments in the writ petition also, but were not accepted by the Hon'ble High Court.

She would further submit that the Applicants/Appellants were duly represented before the Hon'ble High Court and had raised the aforesaid contentions, however, the Hon'ble High Court, after considering the same, directed handing over of possession.

7. Considered and perused the records.

8. The perusal of the order passed by the Hon'ble High Court in Writ Petition No. 8601/2026, would reflect that the Applicants/Appellants had opposed the grant of relief of possession to Respondent No.2/ Auction Purchaser at the time of hearing on 28.07.2026 and all issues were considered and dealt with by the Hon'ble High Court.

The Hon'ble High Court in its order dated 28.07.2026 observed that, pursuant to the 6th auction conducted by Respondent No.1/Bank, the Sale Certificate dated 26.07.2021 was issued in favour of Respondent No.2/Auction Purchaser was duly registered on 15.12.2021 and on 02.02.2022, the District Magistrate, Raigad, passed an order under Section 14 of the SARFAESI Act, directing the Tahsildar, Raigad to take physical possession of the subject property. It is also observed by the Hon'ble High Court that the DRT had dismissed Securitisation Application No. 23/2023 vide order dated 29.05.2026.

It is also observed by the Hon'ble High Court that the present appeal was pending before this Appellate Tribunal.

After hearing the parties, the Hon'ble High Court passed an order directing that necessary assistance be provided for taking possession of the secured asset.

In view of the same, this Appellate Tribunal is of the considered view that the issues and grounds raised by the Applicants/Appellants

in support of their prayer for restraining the Respondents from taking possession of the secured asset were brought to the notice of the Hon'ble High Court and were considered while passing the aforesaid directions. Therefore, at this stage, the Applicants/Appellants have failed to establish a prima facie case in their favour. The balance of convenience also lies in favour of the Respondents. Consequently, no ground is made out for granting the ad-interim relief sought by the Applicants/Appellants.

9. In view of the above facts and circumstances, this Appellate Tribunal is of the considered view that I.A. No. 489/2026 is devoid of merit and is liable to be dismissed.

10. Accordingly, the I.A. No. 489/2026 is dismissed.

11. The reply, if any, to the grounds of appeal and the other incidental applications, if any, be filed within four weeks with an advance copy to the other side.

12. List the case on 26.11.2026 for hearing.

Sd/-
Chairperson

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