

BEFORE THE DEBTS RECOVERY
APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 482/2026 (Stay)

In

Regular Appeal No. 54/2026

Between

Shri Kishor Vasudev Paryani

... Appellant/s

V/s.

State Bank of India & Ors.

...Respondent/s

And

I.A. No. 512/2026 (Stay)

In

Regular Appeal No. 61/2026

Between

Ashok Devchandbhai Thakkar

... Appellant/s

V/s.

State Bank of India & Ors.

...Respondent/s

And

I.A. No. 511/2026 (Stay)

In

Regular Appeal No. 60/2026

Between

Rajde Jagdish Kanaiyalal

... Appellant/s

V/s.

State Bank of India & Ors.

...Respondent/s

And

I.A. No. 513/2026 (Stay)

In

Regular Appeal No. 62/2026

Between

Harshad Mangalji Morbia & Ors.

... Appellant/s

V/s.

State Bank of India & Ors.

...Respondent/s

And

I.A. No. 510/2026 (Stay)

In

Regular Appeal No. 59/2026

Between

Mansukhlal Devchandbhai Thakkar

... Appellant/s

V/s.

State Bank of India & Ors.

...Respondent/s

-: Common Order dated: 18/08/2026: -

1. Present as under:

Mr. Ritesh Patadia, Counsel for Applicants/ Appellants.

*Mr. Rajesh Nagory, i/ b Mr. Vivek Sawant & Ms. Sujata Dahigaonkar,
Counsel for Respondent No.1.*

*Mr. Bhaskar Sharma, i/ b Mr. Yash Dinde, Counsel for Respondent
No.5/ Auction Purchaser.*

No representation for other Respondents despite repeated calls.

2. This order shall dispose of the I.A. No. 482/2026 in Regular Appeal No. 54/2026, I.A. No. 512/2026 in Regular Appeal No. 61/2026, I.A. No. 511/2026 in Regular Appeal No. 60/2026, I.A. No. 513/2026 in Regular Appeal No. 62/2026 & I.A. No. 510/2026 in Regular Appeal No. 59/2026.

3. The Counsel for the Applicants/Appellants would submit that these respective interim applications in above five appeals arise out of the common order dated 16.04.2026 passed by the Ld. Presiding Officer, DRT-I, Ahmedabad, whereby the Ld. Lower Tribunal has dismissed the appeals of the Applicants/Appellants against the order of the Recovery Officer.

4. The Counsel for the Applicants/Appellants would argue that the Applicants/Appellants are tenants in the property in question bearing “*Plot No. 656, Ward No. 12-C, Lilashah Circle, Gandhidham, Kachchh, Gujarat (Commercial G + 2 store, shopping-cum-residential building)*” which is owned by the Respondent No. 3/Certified Creditor ; that , Respondent No. 3/Certified Creditor had taken a loan from the Respondent No. 1/Bank and could not repay the loan ; that , consequently, the Respondent No. 1/Bank initiated the proceedings by filing the Original Application for realization of the loan due against the Respondent Nos. 2 and 3 and got this property auctioned in the recovery proceedings and initiated the proceedings for taking possession ; that , against this Applications for stay were filed before the Recovery Officer, which were dismissed ; that , consequently, the appeals were filed before the DRT-I, Ahmedabad but

these appeals were also dismissed vide the impugned order dated 16.04.2026. Hence these appeals.

He would further submit that the auction took place on 28.03.2025 ; that , Respondent No. 3/Certified Creditor had purchased this property on 22.01.2014 ; that , in the sale deed, *Annexure A (in the appeal before DRT-I, Ahmedabad)*, it is written that the property was sold with tenants and the present Applicants/Appellants are none else but the same tenants who have been referred to in Para Nos. 4 to 9 in the sale deed, *Annexure A to the appeal before DRT-I, Ahmedabad*.

The Counsel for the Applicants/Appellants would further submit that this is also observed in the order of the Recovery Officer that the property in question has the Applicants/Appellants as occupants by way of tenancy created by the previous owner to the Respondent No. 3/Certified Creditor ; that , this has also come into the valuation report for the auction of this property that this property is occupied by tenants.

The Counsel for the Applicants/Appellants would submit that the Recovery Officer and subsequently the DRT-I, Ahmedabad erred in not appreciating this important fact and disallowed the Applications and the Appeals respectively and did not protect the tenancy rights of the Applicants/Appellants; that, the Applicants/Appellants would further submit that the Applicants/Appellants have been paying the electricity bills

through cheques in respect of the respective electricity meters installed in the property, although the meters are installed in the name of the previous owner of the property.

He would further submit that the Applicants/Appellants, who are running their shops in this property, have registration of their shops at the address of the same property prior to the auction of this property. Therefore, the Applicants/Appellants have a good prima facie case and the balance of convenience is also in their favour and if the ad-interim protection is not granted against their dispossession, then the Applicants/Appellants shall suffer irreparable loss by loss of earnings and livelihood.

5. Per Contra, the Counsel for Respondent No. 1/Bank would submit that in the Original Application filed before the Recovery Officer, the Applicants/Appellants had sought the relief of declaration to declare the Applicants/Appellants to be tenants in the property in question which is not within the purview or jurisdiction of the Recovery Officer; that, this prayer was also raised in the appeal before DRT-I, Ahmedabad against the order of the Recovery Officer, in which the relief of not dispossessing the Applicants/Appellants before adjudicating their tenancy rights was sought, which is beyond the jurisdiction of the Debt Recovery Tribunal under the

law; that, the Applicants/Appellants have filed civil suits for declaration of their respective tenancy, therefore, the same relief cannot be prayed for in this application before the Recovery Officer, in the appeal before the DRT and in the second appeal before this Appellate Tribunal; that, the Applicants/Appellants are contending that they had been paying the electricity bills but have not filed even a single electricity payment receipt; that, the registration numbers which the Applicants/Appellants respectively have filed are GST registrations and such GST registrations shall not prove possession as anybody can have registration at any address without proof of possession; that, the Applicants/Appellants have not filed any photograph of the property which they allege to be occupying as rightful tenants prior to the valuation of the property and the only photograph which they have filed is a general photograph which does not show possession of the respective Applicants/Appellants.

6. The Counsel for the Respondent No. 1/Bank would further submit that the Applicants/Appellants have no right or interest in the property in question and the application which has been filed before the Recovery Officer is nothing but is at the instance of the Respondent No. 4/Certified Creditor, who wants to frustrate the process of law for the recovery of dues from him under the law as per the loan agreement.

7. In rebuttal, the Counsel for the Applicants/Appellants would submit that the Applicants/Appellants have not only filed the GST registrations but have also filed the registration of the shops from the Gandhidham Municipality under Rules 6 and 8 of the Bombay Shops and Establishments Rules, 1948, in Form 'C'.

The Counsel for the Applicants/Appellants would further submit that he has filed the information received under RTI from the Electricity Department which states that the bill was paid against the meter installed at the property in question ; that , however , he would fairly concede that this statement does not reflect that these payments were made by the Applicants/Appellants. On query, he is fair enough to admit that he has not placed on record the receipts of the payments of the electricity bills if made from time to time to the Electricity Department by Applicants/Appellants.

8. The Learned Counsel for Respondent No. 5/Auction Purchaser, would submit that he is a bona-fide purchaser of the property in question and is entitled to recovery of possession.

He would further submit that he adopts the arguments addressed by the Counsel for Respondent No. 1/Bank.

He would further submit that the Applicants/Appellants have not challenged the auction sale and have neither challenged the grounds of the sale certificate issued in favour of Respondent No. 5/Auction Purchaser ; therefore , the application filed by them before the Recovery Officer were not maintainable and, consequently, this appeal is liable to be dismissed.

9. Considered and perused the records.

10. In the impugned order dated 16.04.2026 it is observed that the Applicants/Appellants had filed Rent Notes with the memo of the appeal filed before the Ld. DRT-I, Ahmedabad.

The Learned Counsel for the Applicants/Appellants has not assailed this part of the impugned judgment, therefore, it becomes an admitted fact that the Applicants/Appellants had filed the Rent Notes in their respective appeals in which the impugned order was passed.

The Learned DRT-I, Ahmedabad has unequivocally observed that these Rent Notes did not mention any period of the lease consequently, the same shall constitute a perpetual lease or, in other words, a lease for a term exceeding one year, which can only be made through a registered document as mandated under Section 17 of the Registration Act.

It is also the submission of the Learned Counsel for the

Applicants/Appellants that though they have filed the information receipt from the Electricity Department regarding payment of the electricity bill, it does not reflect that those electricity bills were paid by the Applicants/Appellants.

The Counsel for the Applicants/Appellants is fair enough to concede that the Applicants/Appellants have not filed the receipts of payment of the electricity bills for the electricity connection in the property in question. He also concedes that there are no photographs filed before the Lower Forums and Tribunal respectively showing the Applicants/Appellants operating their businesses or running their shops in the premises forming part of the property in question. Moreover, none of the Applicants/Appellants has filed the Rent Receipt in respect of the tenancy for the rent paid to property owner.

It is also pertinent to note that, in Para No. 20 of the impugned order, the Learned DRT has observed that the Applicants/Appellants have not filed the receipts.

11. In view of the above, this Appellate Tribunal is of the considered view that the Applicants/Appellants have failed to establish a good prima facie case and balance of convenience in their favour, as they are not able to show the existence of a valid tenancy; therefore, the question of

irreparable loss also does not arise.

12. Accordingly, the Applications Nos. I.A. No. 482/2026, I.A. No. 512/2026, I.A. No. 511/2026, I.A. No. 513/2026 and I.A. No. 510/2026 are dismissed.

However, the Respondents are restrained from dispossessing the Applicants/Appellants from the property in question for thirty days in order to file appeal, if they are so advised.

13. Parties are to bear their own costs.

14. The Respondents are directed to file the reply/objections to the main appeal within four weeks with advance copy to the Appellants.

15. List the matter on 04.12.2026 for hearing the appeal.

Sd/-
Chairperson

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