BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 582/2026 (WoD)
In
Regular Appeal Diary No. 1747/2026

Between

Vijayan T.P. & Anr. … Appellant/s

V/s.

The Authorised Officer, …Respondent/s
Omkara Asset Reconstruction Pvt. Ltd. & Ors.

-: Order dated: 08/10/2026: -

1. Present as under:

Mr. Kalpak Mainkar along with Ms. Rutuja Kulkarni, Counsel for Applicants/Borrowers.

Mr. Darshan Solanki, Counsel for Respondent No.1.

No representation for other Respondents despite repeated calls.

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

3. The Learned Counsel for the Applicants/Borrowers would submit that the Respondent Nos.3, 4, 5 & 6 are the Directors of the Respondent No.2 Company.

He would further submit that the Applicant Nos.1 & 2 were also Directors of the Respondent No.2; that, no relief is claimed against the Respondent Nos.2, 3, 4, 5 & 6.

4. The report of the Registry would reflect that the service upon the Respondent Nos.2, 3, 4, 5 & 6 is not completed.

5. The Learned Counsel for the Respondent No.1 would submit that he has received instructions to appear on behalf of the Respondent No.1 and tenders the Vakalatnama. The same is taken on record.

6. The Learned Counsel for the Applicants/Borrowers would submit that the Respondent No.1 had issued the notice under Section 13(2) of the SARFAESI Act and demanded a sum of ₹14,23,89,522/- along with interest accrued thereon @ 14.75% per annum until its entire realisation.

He would further submit that the waiver to the extent of 25% on debt due as per 3rd proviso to section 18 of the SARFAESI Act be given as the financial condition of the Applicants/Borrowers is very weak.

7. Per contra, the Learned Counsel for the Respondent No.1 vehemently opposes the prayer made by the Applicants/Borrowers.

He would further submit that as stated in paragraph No.12 of the waiver application itself, the DRT, Pune observed that a sum of ₹27 Crore is still outstanding and payable by the Applicants/Borrowers; that, a notice for taking symbolic possession was issued and served upon the Applicants/Borrowers is which the

amount outstanding against the Applicants/Borrowers is stated ₹26,46,99,213/- as on 31.01.2022 and further interest has also accrued thereon since then till today.

8. In reply, the Learned Counsel for the Applicants/Borrowers would fairly concede at the Bar that the said notice was issued and the amount stated in the said notice is the same as stated by the Learned Counsel for the Respondent No.1 i.e. ₹26,46,99,213/-.

9. Considered and perused the record.

10. As admittedly, notice for taking symbolic possession was issued in which the debt due as on 31.01.2022 is stated to be ₹26,46,99,213/- with interest till today. Therefore, this Tribunal directs the Applicants/Borrowers to deposit 40 % of ₹26,46,99,213/-, which comes to ₹ 10,58,79,685.20/- on or before 22.10.2026 as prayed by the Applicants/Borrowers

11. The amount shall be deposited in the form of a Demand Draft with the Registrar of this Appellate Tribunal.

12. 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.

13. With this observation, the I.A. No. 582/2026 is disposed of.

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

The Respondent No. 1 is at liberty to file a reply to the grounds of the Appeal and stay application with an advance copy to the other sides.

15. **At this stage**, the Learned Counsel for the Applicants/Borrowers would pray for Application (Diary) No.1749/2026 for staying the order dated 09.09.2026 passed by the Ld. Presiding Officer, DRT-Pune.

16. The Learned Counsel for the Respondent No.1 opposed for grant for any stay on the ground that the Appeal is not yet registered due to non-payment of mandatory pre-deposit.

17. The Learned Counsel for the Respondent No.1 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, the matter 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.

18. 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."

19. 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)

……

……"

20. 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.

21. If the deposit is made as stated in para 10 above on or before 22.10.2026, list the Appeal on 23.10.2026 for reporting compliance and hearing.

In the event of failure to deposit the said amount till 22.10.2026, the Appeal shall stand dismissed automatically without further reference to this Appellate Tribunal.

Sd/-
Chairperson
08.10.2026

Psa-01