BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 568/2026 (WoD)
In
Regular Appeal Diary No. 1395/2026

Between

M/s. Balaji Precision Tubes (India) Pvt. Ltd. & Anr. … Appellant/s

V/s.

Canara Bank & Ors. …Respondent/s

-: Order dated: 27/10/2026: -

1. Present as under:

Mr. Puneet Gogad along with Mr. Amar Dube, Counsel for Applicants/Borrowers.

Ms. Vaishali Bhilare, Counsel for Respondent No.1/Bank.

Mr. Charles De'Souza along with Aniruddha, i/b KLT Law Associates, Counsel for Respondent No.5/Auction Purchaser.

No representation for other Respondents despite repeated calls.

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

3. At the outset, it is pertinent to note that the Hon'ble High Court of Judicature at Bombay vide order dated 16.10.2026 passed in Writ Petition No. 12647/2026 directed this Appellate Tribunal to take up the present appeal along with the pending applications filed by the Applicants/Borrowers on 27.10.2026 under the urgent category and

to consider the interim applications in accordance with law without being prejudiced by the order passed in the aforesaid writ petition.

4. The Learned Counsel for the parties would jointly submit that the application for waiver of the mandatory pre-deposit under the third proviso to Section 18(1) of the SARFAESI Act I.A. No. 568/2026 may be decided first. Thereafter, upon compliance with the order passed in the said application, the application for condonation of delay and subsequently, the application for interim relief may be heard and decided.

I.A. No. 568/2026 for Waiver Of Mandatory Pre-Deposit.

5. The Learned Counsel for the Applicants/Borrowers would submit that the demand notice dated 10.08.2022 issued under Section 13(2) of the SARFAESI Act is defective, as it does not separately specify the outstanding principal amount and the interest calculated thereon; that, the Applicants/Borrowers had raised the said objection in in paragraph 21 of their reply to that demand notice by way of Representation dated 08.10.2022, (*annexed as Exhibit-N to the memorandum of grounds of appeal*); that, the Respondent No. 1/Bank did not prove the reply, if any, to that Representation before the DRT-I, Mumbai; that, prior to filing Securitisation Application No. 21/2023 before the DRT-I, Mumbai, the Applicants/Borrowers had filed Securitisation Application No. 305/2022 before the DRT, Pune; that, the Learned DRT erred in holding that the Applicants/Borrowers

were estopped from challenging the demand notice under Section 13(2) of the SARFAESI Act in the subsequent securitisation proceedings before the DRT-I, Mumbai, merely because a challenge to a demand notice had also been raised in the earlier proceedings.

6. The Learned Counsel for the Applicants/Borrowers would further submit that the declaration of the loan account as a Non-Performing Asset (NPA) was wrongful and that the said issue had also been challenged before the Learned DRT.

7. On query, the Learned Counsel for the Applicants/Borrowers would fairly concede that I.A. No. 568/2026 does not specifically identify the amount of debt due on which the mandatory pre-deposit of 50% under the second proviso to Section 18(1) of the SARFAESI Act is to be calculated.

He would further concede that the application does not specifically mention the amount stated in the Demand Notice and Sale Notice or clearly specify the amount on which the benefit of the third proviso to Section 18(1) of the SARFAESI Act is sought.

8. Per contra, the Learned Counsel for the Respondent No. 1/Bank would submit that as stated in paragraph 8 of the reply, the amount due under the demand notice dated 10.08.2022 was ₹10,96,54,775.42, and the interest and penalties accrued up to the date of filing the present application amounted to ₹9,54,17,145.49; that the Applicants/Borrowers have not pleaded any financial hardship

warranting reduction of the mandatory pre-deposit under the third proviso to Section 18(1) of the SARFAESI Act; that the Applicants/Borrowers had earlier filed Securitisation Application No. 305/2022 before the DRT, Pune, challenging the notice under Section 13(2), the sale notice dated 23.06.2022 and the order passed by the Magistrate under Section 14 of the SARFAESI Act; that, the subsequent filing of Securitisation Application No. 21/2023 before the DRT-I, Mumbai, amounts to an abuse of the process of law; that, although Section 10 of the Code of Civil Procedure, 1908 may not be directly applicable to proceedings before the DRT, the principle underlying the said provision requires consideration where substantially the same relief is sought in subsequent proceedings between the same parties; that, the Applicants/Borrowers had made an incorrect statement regarding the withdrawal of the earlier securitisation application before the DRT, Pune; and the Applicants/Borrowers had repeatedly submitted proposals for a One-Time Settlement (OTS) to the Bank which according to the Respondent No. 1/Bank disentitles them from raising the objections now sought to be agitated.

She would further submit that the Applicants/Borrowers are not entitled to the benefit of the third proviso to Section 18(1) of the SARFAESI Act.

She would rely upon the judgment of the Hon'ble Supreme Court in *ITC Limited v. Blue Coast Hotels Limited, (2018) 15 SCC 99* and submit that the principles laid down therein preclude the Applicants/Borrowers from raising objections concerning alleged

non-compliance with the provisions of Section 13 of the SARFAESI Act at this stage.

9. The Learned Counsel for the Respondent No. 5/Auction Purchaser would adopt the submissions advanced by the Learned Counsel for the Respondent No. 1/Bank.

10. In rebuttal, the Learned Counsel for the Applicants/Borrowers would submit that Securitisation Application No. 305/2022 filed before the DRT, Pune, concerned demand and sale notices bearing dates different from those challenged in Securitisation Application No. 21/2023 before the DRT-I, Mumbai; that, the judgment in re ITC Limited (*supra*) is distinguishable on facts, as the OTS proposal in that case had been accepted by the Bank, whereas none of the OTS proposals submitted by the Applicants/Borrowers in the present matter had been accepted by the Respondent No. 1/Bank.

11. Considered and perused the records.

12. It is pertinent to note that the Applicants/Borrowers have not specifically stated in I.A. No. 568/2026 the amount of debt due on which the mandatory pre-deposit under the second proviso to Section 18(1) of the SARFAESI Act is to be calculated. On the other hand, the Respondent No. 1/Bank has stated in paragraph 8 of its reply that the total amount of debt due, including interest and penalties up to the date of filing of the application, is ₹20,50,71,920.91/- 50% of which

amounts is ₹10,25,35,960.455/-, therefore, Applicants/Borrowers deposit the same in compliance of 2nd proviso to section 18 (1) of Act

13. A perusal of the reply submitted by the Applicants/Borrowers to the demand notice under Section 13(2) of the SARFAESI Act indicates that they had specifically sought particulars of the amounts claimed under different heads. During the course of arguments, the Learned Counsel for the Respondent No. 1/Bank did not clarify whether the representation made by the Applicants/Borrowers against the demand notice had been duly proved before the DRT-I, Mumbai, in the proceedings of Securitisation Application No. 21/2023.

14. This Appellate Tribunal is of the considered view that the applicability of the principle underlying Section 10 of the Code of Civil Procedure, 1908, to proceedings before the DRT requires consideration. The question as to whether subsequent securitisation proceedings are liable to be stayed where two securitisation applications concerning the same loan transaction challenge demand notices and sale notices bearing different dates also warrants consideration. However, these issues would require adjudication in the appeal on its merits and need not be conclusively determined while deciding the present application for waiver of the mandatory pre-deposit.

15. It would be pertinent to note that the Hon'ble High Court of Judicature at Bombay, vide order dated 16.10.2026 passed in Interim

Application No. 8171/2026 in Writ Petition No. 12647/2026, permitted the Applicants/Borrowers to deposit an amount of ₹5.50 crore with this Appellate Tribunal in I.A. No. 568/2026 (WoD) in the present appeal. The said amount has been deposited by the Applicants/Borrowers. Further, in sub-paragraph (d) of paragraph 6 of the aforesaid order, the Hon'ble High Court directed this Appellate Tribunal to take up the main appeal along with the pending applications.

16. In view of the discussion of all the facts and law and above, this Appellate Tribunal is of the considered view that the Applicants/Borrowers have made out a case for reduction of the mandatory pre-deposit to 26.82% of the amount of debt due, in exercise of the power conferred by the third proviso to Section 18(1) of the SARFAESI Act.

17. Accordingly, the mandatory pre-deposit is waived to the extent of 26.82% on the amount of debt due of ₹20,50,71,920.91/- as stated in paragraph 8 of the reply filed by the Respondent No. 1/Bank. The said 26.82% amounts to approximately ₹5.50 crore. The Applicants/Borrowers have already deposited ₹5.50 crore with this Appellate Tribunal as stated by the Learned Counsel for the Applicants/Borrowers.

18. In view of the above, I.A. No. 568/2026 stands disposed of as allowed, thereby reducing the mandatory pre-deposit requirement to

26.82% of the aforesaid amount of debt due. The amount already deposited shall be reckoned towards compliance with the said requirement

19. In view of the order passed herein allowing the application for waiver of the mandatory pre-deposit and the deposit already made by the Applicants/Borrowers, the Registry is directed to register the application for condonation of delay and appeal.

Heard on I.A. (Diary) No. 1752/2026 For Condonation Of Delay.

20. The Learned Counsel for the Applicants/Borrowers would submit that there is a delay of six days in filing the appeal, as pointed out by the Registry, and would pray that the same be condoned in the interest of justice.

21. Not objected to by the Respondents.

22. Therefore, I.A. (Diary) No. 1752/2026 is allowed and the delay of 6 days stands condoned.

Heard on I.A. (Diary) No. 1398/2026.

23. The Learned Counsel for the parties would submit at the Bar that they adopt the same arguments as advanced by them in support

of the waiver application, I.A. No. 568/2026 for the present application for stay I.A. (Diary) No. 1398/2026.

24. As observed hereinabove in paragraphs 14, 15 and 16, the Applicants/Borrowers have made out a good prima facie case in their favour. The balance of convenience also lies in favour of the Applicants/Borrowers, as they are presently in possession of the secured assets. No prejudice would be caused to the Respondent/Bank if their dispossession is stayed during the pendency of the appeal, however, the Applicants/Borrowers would suffer irreparable loss if the dispossession is not stayed.

25. This Appellate Tribunal is of the considered view that, in the absence of an order of stay, the dispossession of the Applicants/Borrowers pursuant to the order passed by the Learned Magistrate during the pendency of the appeal would cause them irreparable loss and injury which could not be compensated.

26. In view of the foregoing discussion and the facts and circumstances of the case, I.A. (Diary) No. 1398/2026 is allowed to the extent that the Respondents are restrained to execute the physical possession notice during the pendency of the present appeal.

27. List the case on 25.01.2027 for hearing.

Sd/-
Chairperson
27.10.2026

Psa-02