

ITEM NO.35

COURT NO.14

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.22378-22379/2026

[Arising out of impugned judgment and orders dated 12-02-2026 in WP No. 2078/2026 & 12-03-2026 in WP No. 2078/2026 passed by the High Court of Judicature at Bombay]

ASHOK RAJKUMAR GUPTA & ORS.

Petitioner(s)

VERSUS

SURYODAY SMALL FINANCE BANK LIMITED & ORS.

Respondent(s)

IA No. 174667/2026 - EXEMPTION FROM FILING C/C OF I/JUDGMENT, IA No. 181115/2026 - PERMISSION TO FILE ADDL.DOCS./FACTS/ANNEXURES

Date : 05-08-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE ARUN PALLI

For Petitioner(s) Ms. Eshna Kumar, Adv.
Ms. Sabri, Adv.
Mr. Anand Dilip Landge, AOR

For Respondent(s) Mr. Archit Virmani, Adv.
Mr. Abhinav Hansaria, AOR
Ms. Richa Shukla, Adv.
Mr. Daneel Pancras, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The present petitions call in question the correctness of the judgment/order(s) dated 12-02-2026 in WP No. 2078/2026 & 12-03-2026 in WP No. 2078/2026 passed by the High Court of Judicature at Bombay. Before the High Court, respondent no.1 was a writ petitioner. The Respondent no.1 has challenged *inter alia* order dated 04.02.2026 passed by the Debts Recovery Tribunal, Pune (for short, 'DRT') whereby the application filed by the petitioners herein for restoration of possession

was allowed.

2. By virtue of the impugned order, the High Court directed that pending final disposal of the writ petition, the order of 04.02.2026 of the DRT, was to remain stayed. When the Special Leave Petition came up for hearing on 24.06.2026, this Court, while issuing notice on the Special Leave Petition, directed that *status quo* as regards possession of the subject property, as on 24.06.2026 shall be maintained.

3. We have heard Ms.Eshna Kumar, learned counsel for the petitioners and Mr.Archit Virmani, learned counsel for respondent no.1. Respondent nos.2 & 3 though served, have chosen not to appear.

4. On 28.01.2026, the DRT has, while hearing IA No.250/2026 in SA No.61/1026, directed that since the petition under Section 95 of the Insolvency and Bankruptcy Code, 2016 (for short, 'IBC' was filed by the petitioners herein and was pending before the National Company Law Tribunal, Mumbai (for short, 'NCLT') and since moratorium was running, the respondent no.1 herein shall not take possession of the suit property in question. It is the stand of the respondent no.1 that on 28.01.2026, between 03.25 PM and 4.10 PM, the possession of property in question was taken.

5. IA No.335/2026 in SA No.61/2026 was filed by the petitioners herein before the DRT, seeking orders for restoration of possession of the property in question. That IA No.335/2026 was disposed of, *inter alia*, by order dated 04.02.2026 by the DRT. The operative order reads as under:-

"5. On 28.01.2026, after hearing of arguments of both the parties in IA No.250/2026, it was reserved for order for some time as this Court was busy in hearing other urgent matters. Thereafter, Order of Injunction was passed and pronounced at the beginning of Second Session.

However, during hearing of IA No.250/2026 and other urgent matters, the appointed Court Commissioner in presence of Authorised Officer of the defendant bank began to take possession of the suit property and even after passing Order of Injunction and its pronouncement, he took possession of the suit property despite communicated by the applicants which was loaded on Official Website.

6. This act of the defendant bank is not appreciable and acceptable to law. When the Authorized Officer of the defendant bank was having full knowledge about IA No.250/2026 was pending for hearing as well as order, he alongwith Court Commissioner should not have undertaken the work of taking possession of the suit property. However, hastily they took possession of the suit property through Court Commissioner and this practise has to be deprecated.

7. In view of these findings, I am of opinion that it is necessary to direct the defendant bank to restore the possession of the suit property taken on 28.01.2026. Therefore, I pass following order:

ORDER

- a. Application is allowed.*
- b. The defendant bank shall restore the possession of the suit property taken on 28.01.2026 to the applicants within a week from today by de-sealing the same.*
- c. The applicants shall settle loan account at the earliest.*

d. Application is disposed of."

6. The respondent no.1 filed writ petition in the High Court challenging, *inter alia*, order of 04.02.2026.

7. As discussed above, it resulted in the impugned orders, and consequently, the order of this Court dated 24.06.2026.

8. We are of the opinion that pending disposal of the writ petition before the High Court of Bombay, *inter-alia* the order of 04.02.2026 passed by the DRT, Pune should operate.

9. Mr.Archit Virmani, learned counsel, after obtaining instructions from the respondent no.1, submitted that without prejudice to their rights and contentions in the writ petition, they will, within a week from today, i.e. on or before 12.08.2026, handover the vacant and peaceful possession of the property in question to the petitioners. The petitioners shall retain possession of the property in question till the proceedings before the High Court are finally decided and the rights of the parties adjudicated. The petitioners undertake that till such time, they will not create third party rights of any kind whatsoever in the property in question.

10. They further undertake that ultimately, if the proceedings culminate in favour of the respondent no.1, they will handover back the possession of the property in question to the respondent no.1.

11. We record that the writ petition be heard uninfluenced by any of the observations in the impugned orders or in the order

that we have made today.

12. All contentions between the parties are left open.

13. The Special Leave Petitions are disposed of in the above terms.

14. Pending application(s), if any, shall also stand disposed of.

(NIRMALA NEGI)
ASTT. REGISTRAR-cum-PS

(MANOJ KUMAR)
COURT MASTER (NSH)