ITEM NO.36 COURT NO.12 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) No(s). 36749/2026

[Arising out of impugned judgment and order dated 09-10-2026 in WP No. 3102/2026 passed by the High Court of Judicature at Bombay]

PRATUL KUMAR SINGH Petitioner(s)

VERSUS

RAMESH MANSUKHANI & ORS. Respondent(s)

IA No. 321824/2026 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 319670/2026 - EXEMPTION FROM FILING C/C OF I/JUDGMENT, IA No. 321838/2026 - INTERVENTION APPLICATION, IA No. 321051/2026 - PERMISSION TO FILE ADDL.DOCS./FACTS/ANNEXURES

Date : 15-10-2026 This matter was called on for hearing today.

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

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Sujoy Chatterjee- 2954, AOR
Mr. Rishit Vimadalal, Adv.
Mr. Rongon Choudhury, Adv.
Mr. Virender Kumar, Adv.
Mr. Shivjee Yadav, Adv.

For Respondent(s) Mr. Maninder Singh, Sr. Adv.
Mr. Jay Zaveri, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Himanshu Satija, Adv.
Ms. Rhea Prakash, Adv.
Ms. Tavleen Saini, Adv.
Ms. Neha Mehta Satija- 3757, AOR

Mr. Nakul Dewan, Sr.Adv.
Mr. Vipul Agrawal, AOR
Ms. Megha Gupta, Adv.
Mr. Arjun Kant, Adv.
Ms./Mr. Lavanita Chityala, Adv.

Mr. Sooraj Sharma, Adv.
Mr. Jatin Kochhar, Adv.
Mr. Upamanyu Ganguly, Adv.
Mr. Syed Alwaz Asif, Adv.
Ms. Barkha Tandon, Adv.
Ms. Ashima Sharma, Adv.
Mr. Srinivas Cummaragunta, Adv.

Mr. S.Niranjan Reddy, Sr.Adv.
Mr. Abhinav Agrawal, AOR
Mr. Piyush Bhardwaj, Adv.
Mr. Shivam Sengupta, Adv.

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

1. The present petition calls in question the correctness of the order 09-10-2026 in WP No. 3102/2026 passed by the High Court of Judicature at Bombay. By the said order, the High Court has made the following operative directions pending the disposal of the writ petition:

> *"20. In the meanwhile, in the light of the observations made hereinabove, respondent No. 6, Bankruptcy Trustee, is directed to hand over physical possession of the subject property to the petitioner on or before 12.10.2026.*
>
> *21. This Court will not tolerate any obstruction created by any of the respondents with regard to execution of the said direction, including respondent No. 4 or any third party.*
>
> *22. It is further directed that upon taking possession, the petitioner, shall not create third-party rights in the subject property, until further orders, as this would create unnecessary*

complications.

23. Needless to say, the handing over of possession to the petitioner would be subject to further orders in this writ petition and subject to the final result thereof.

24. It is further clarified that upon taking possession of the subject property, the petitioner would be entitled to undertake minor repairs in the property, but no structural or major modifications shall be undertaken.

25. Since the petitioner is being restrained from dealing with the subject property after taking possession thereof, it would be only in the fitness of things that respondent No. 6, Bankruptcy Trustee, takes the leave of this Court in the event the said respondent intends to take any further steps in the matter with regard to the subject property.
Ordered accordingly."

2. The writ petition itself was filed for the following reliefs:-

(a) That this Hon'ble Court be pleased to issue a writ, order or direction under Article 226 of the Constitution of India declaring that the interim moratorium under Section 124 of the Insolvency and Bankruptcy Code, 2016 as being ultra vires Articles 14, 19(1)(g) and 21 of the Constitution of India, illegal, null and void, in so far as it is applicable to secured creditors who have enforced their security interest prior to the commencement of the interim moratorium under Section 124 of the Insolvency and Bankruptcy Code, 2016:

(b) That this Hon'ble Court be pleased to pass a writ. order or direction declaring that interim moratorium under Section 124 of the Insolvency and Bankruptcy Code, 2016 is not applicable to the Sale Notice dated 12th March 2025 and that the sale in respect of the Subject Property may be completed by the Respondent No. 3;

(c) That this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any

c)-A. That this Hon'ble Court be pleased to pass on order directing the Respondent No. 3 and Respondent No. 5 to take appropriate steps to ensure that physical possession of the Subject Property is taken at the earliest and hand over to the Petitioner;

(c)-B. That this Hon'ble Court be pleased to pass on order directing the Respondent No. 7 to assist the Court Commissioner and / or Respondent Nos. 3 and 5 to take forcible physical possession of the Subject Property from Respondent No. 4 and / or Respondent No. 6 to render any other assistance for taking physical possession of the Subject Property;

(c)-C. That pending hearing and final disposal of the captioned Writ Petition, this Hon'ble Court be pleased to pass an order directing the Court Receiver of the Hon'ble Bombay High Court to take physical possession of the Subject Property;

(c)-D. That this Hon'ble Court be pleased to pass an order directing that the period spent in litigation for taking physical possession of the Subject Property be excluded from the computation of the period contemplated under Rule 9(4) of the Security Interest (Enforcement) Rules, 2002;

(c)-E. That this Hon'ble Court be pleased to pass such other orders as it may deem appropriate to protect the

rights of the Petitioner until such time that physical possession of the Subject Property is handed over to the Petitioner;

(c)-F. That this Hon'ble Court be pleased to pass such other orders as it may deem appropriate to protect the rights of the Petitioner under the Sale Certificate dated 22nd July 2026, pending the actual taking of physical possession of the Subject Property by Respondent No. 5;

other writ, order or direction under Articles 226 of the Constitution of India calling for the records and proceedings relating to the Impugned Order dated 25th April 2025 passed by the Hon'ble DRT, and after examining the legality and validity of thereof, to quash and set aside the same (at Exhibit A hereto);

(d) That pending the hearing and final disposal of the petition the Respondents by themselves, their subordinate officers, servants and agents be restrained by an order and injunction of this Hon'ble Court from taking any steps of any nature and / or in any manner acting in furtherance of the Impugned Order dated 25th April 2025 passed by the Hon'ble DRT in respect of the subject property (at Exhibit A hereto);

(e) For ad-interim reliefs in terms of prayer C(A) to C(F) (d) above;

(f) That the costs of the Petition be provided for; and

(g)For such other and further reliefs as the nature and circumstances of the case may require."

3. Heard Mr. Shyam Divan, learned Senior Counsel for the

Bankruptcy Trustee, who is the petitioner; Mr. S. Niranjan Reddy, learned Senior Counsel for some of the creditors supporting the Bankruptcy Trustee, Mr. Maninder Singh, learned Senior Counsel appearing on caveat for respondent no.1-purchaser of the property by a private treaty, Mr. Nakul Dewan, learned Senior Counsel and Ms. Megha Gupta, learned counsel, appearing for respondent nos.2 and 3-secured creditors.

4. Mr. Shyam Divan, learned Senior Counsel for the petitioner contends that the High Court could not entertain a writ petition when the alternate remedies were available before the National Company Law Appellate Tribunal (for short, 'NCLAT'); that in any event on 24.04.2026, the National Company Law Tribunal, Mumbai (for short, 'NCLT') had admitted the Company Petition No.593/2025 and appointed the petitioner as a Bankruptcy Trustee of respondent no.4. Learned Senior Counsel further contends that the order of admission was communicated to the petitioner on 29.04.2026.

5. Referring to Section 128 of the Insolvency and Bankruptcy Code, 2016 (for short, 'IBC'), learned Senior Counsel contends that on the passing of a Bankruptcy Order, the estate of a bankrupt shall vest in the Bankruptcy Trustee as provided in Section 154 of the IBC. Learned Senior Counsel contends that under Section 154 of the IBC the vesting is immediately from the date of appointment of Bankruptcy Trustee and such vesting is to take effect without any conveyance, assignment or transfer.

6. Mr. Shyam Divan, learned Senior Counsel further contends

that for the High Court was not justified in the teeth of the statutory provisions, at the interim stage, to direct handing over of the possession back to respondent no.1.

7. Mr. S. Niranjan Reddy, learned Senior Counsel supported the learned Senior Counsel for the petitioner, by drawing attention to Regulation 31 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (for short, 'IBBI') and contended that any secured creditor who seek to realize a security ought to intimate the Bankruptcy Trustee of the price at which he proposes to realize the secured asset.

8. Regulation 31 of the IBBI reads as under:-

"31. Realisation of security interest.

(1) A secured creditor, who seeks to realise his security, shall intimate the bankruptcy trustee of the price at which he proposes to realise the secured asset.

(2) The bankruptcy trustee shall attempt to identify a buyer willing to purchase the security at a price higher than the price intimated under sub-regulation (1), and the asset shall then be sold to such buyer, if any, at the higher price by the secured creditor.

(3) Where the secured asset is realised under sub-regulation (2), the cost of identification of the buyer shall form part of bankruptcy process cost.

(4) If the bankruptcy trustee does not identify a buyer under sub-regulation (2), or the person so identified does not buy the secured asset, the secured creditor may realise the secured asset in the manner it deems fit, but at least at the price intimated under sub-regulation (1) and shall bear the cost of identification of the buyer.

(5) Where a secured creditor realises his security and

the amount realised is in excess of the debts due to the secured creditor, such creditor shall tender such excess to the bankruptcy trustee."

9. According to Mr. S. Niranjan Reddy, learned Senior Counsel, the said procedure was not complied with.

10. In response Mr. Nakul Dewan, learned Senior Counsel and Ms. Megha Gupta, learned counsel contend that in the present case, the sale was confirmed of the property situated in the 3rd, 4th and 5th Floor of the Aadhya Building, Jaihind Co-operative Housing Society Ltd., Plot No.43, N.S.Road No.10, Vile Parle (West), Mumbai, Maharashtra, to respondent no.1-purchaser on 31.03.2025.

11. It was contended from payment of Rs.6.26 crores approximately of the total agreed price of Rs.25.07 crores was made. Learned Senior Counsel and learned counsel contend that the respondent nos.2 & 3 had mortgage interest in the property(es) in question and even as per the terms of the mortgage, respondent no.1 had the right of the first refusal.

12. Learned Senior Counsel and learned counsel contend that the proceedings were initiated under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') and that multiple auction notices were not fruitful.

13. Thereafter, by a private treaty, the property(ies) was/were agreed to be sold. Learned Senior Counsel and learned

counsel contend that the respondent no.4-Bankrupt has resorted to all steps to defeat the sale. At the last the NCLT for moved for initiation of bankruptcy proceedings under Section 122 of the IBC, resulting in the order of 24.04.2026, before the full consideration could be paid by the respondent no.1.

14. Their contention was supported by Mr. Maninder Singh, learned Senior Counsel for purchaser-respondent no.1. Learned Senior Counsel contended that respondent no.1, has parted with Rs.25.07 crores pursuant to the order of the High Court dated 21.07.2026 and that the respondent no.1 is entitled to retain possession as per the interim order.

15. We have considered the submissions of learned Senior Counsel/Counsel appearing for the parties and perused the records.

16. *Prima facie* we are of the opinion that with the vesting of the property(ies) with the Bankruptcy Trustee under Section 128 read with 154 of the IBC on 24.04.2026, title having not passed on to the purchaser-respondent no.1, we are of the opinion that the High Court could not made an interim order directing handing over of the possession of the property(ies) in question.

17. At this stage, Mr. Maninder Singh, learned Senior Counsel for purchaser-respondent no.1 draws attention to the amended provisions of the Section 13(8) of the SARFAESI Act to contend that unlike the provisions that obtained before the amendment, the borrower loses the right of redemption upon issuance of the first auction notice even if the auction fails. According to

learned Senior Counsel, this would mean that before the order admitting the bankruptcy petition; appointment of Bankruptcy Trustee, the borrower-respondent no.4 having lost the right of redemption, the property(es) could not be set to be part of the estate of the bankrupt.

18. This contention is seriously disputed by Mr. S.Niranjan Reddy, learned Senior Counsel and submits that where the purchaser had defaulted deposit of balance consideration, the right of redemption is not lost and would always be available. Independent of that, learned Senior Counsel submits that the sale process could be challenged.

19. We set aside the impugned order and direct respondent no.1 to put the petitioner in possession of the property(ies) in question on or before 30.10.2026.

20. All contentions available to the parties including contentions with regard to maintainability of the writ petition are left open to be decided by the High Court.

21. Considering the fact that the purchaser had parted with the money and considering that the claimants- Bankruptcy Trustee also would be eagerly awaiting for their claim to be settled, we request the High Court to make an endevour to dispose of the writ petition itself within a period of twelve weeks from today.

22. Needless to say that the writ petition will be disposed of uninfluenced by any of the observations made in the order of the High Court or in the present order.

23. With these observations, the Special Leave Petition is

disposed of.

24. All pending applications including IA No. 321824/2026 and IA No. 321838/2026 shall also stand disposed of.

(NIRMALA NEGI)
ASTT. REGISTRAR-cum-PS

(NIKITA SINGH)
COURT MASTER (NSH)