

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1735 OF 2026

Kondiram B. Waghmare .. Petitioner

V/s.

Bank of Maharashtra Thr Its authorised .. Respondents  
Office and Ors

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Mr. Vishal Kanade, a/w Mr. Milind A. Ingole, Ms. Aishwarya Gaikwad, for  
the Petitioner.

Ms. J. Desai, i/b Mr. N. Salri, for Respondent No. 1- Bank.

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CORAM : MANISH PITALE &  
SHREERAM V. SHIRSAT, JJ.

DATE : 4TH MARCH 2026.

PC:

1. Heard learned counsel appearing for the petitioner. The principal contention raised on behalf of the petitioner (guarantor and mortgagor) is that in the present case, the Debt Recovery Appellate Tribunal (DRAT) has erred in accepting a statement made on behalf of the Respondent No. 1- bank (secured creditor) to the effect that when the application for waiver of per-deposit was decided by the impugned order, the amount due was about Rupees 15 crores and odd. It was submitted that although the DRAT recorded that as per the notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the amount due as on

16/07/2016 was Rs. 4,70,27,890/- , the statement made on behalf of the Respondent No. 1- bank was accepted as it is and the petitioner was directed to make pre- deposit of 30% of Rs. 15 crores as a precondition for entertaining the Appeal.

2. It was submitted that the approach adopted by the DRAT is not in consonance with the statutory provision, particularly second proviso to Section 18 of the SARFAESI Act. The DRAT ought to have determined the amount due with cogent reasons and whichever amount was less should have been the basis for passing an order for pre- deposit.

2. The learned counsel for Respondent No. 1- bank has appeared and she submits that a short affidavit can be placed on record to satisfy the conscience of this Court, to indicate that the impugned order does not deserve any interference. It is submitted that the petitioner failed to abide by the condition of pre- deposit and hence, the appeal itself has been dismissed by the DRAT. It is further indicated that sale in favor of the auction purchaser has been confirmed, sale certificate has been issued and subsequent events indicate that the petitioner does not deserve any consideration.

3. The Respondent No. 1- Bank is directed to file reply affidavit within two weeks from today.

4. List the petition for further consideration on 23<sup>rd</sup> March 2026, 'High on Board.'

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)