IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7192 OF 2026

Shyam Pannalal Jaiswal and another … Petitioners

Vs.

Fullerton India Home Finance Co. Ltd. and others … Respondents

Mr. Mandar Soman a/w. Ms. Prashansa Agarwal i/b. Mr. Vivek Phadke for Petitioners.

Ms. Sanjana Ghogare for Respondent No.1.

Ms. Pallavi Kulkarni a/w. Ms. Daksha Parmar for Respondent Nos.2 and 3.

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

DATE : JUNE 09, 2026

P.C. :

. Heard Mr. Soman, learned counsel for the petitioners.

2. This petition was taken on the production board in the light of grave urgency projected on behalf of the petitioners.

3. The petitioners are borrowers and their application bearing Securitisation Application No.87 of 2021 was pending consideration before the Debts Recovery Tribunal-III, Mumbai (DRT), wherein an order of interim relief granted by the Debts Recovery Appellate Tribunal (DRAT) was operating. It is the case of the petitioners that the securitisation application suddenly came to be listed before the DRT behind the back of the petitioners, due to which it was dismissed in default and the interim order stood vacated, as a consequence of which, the respondents have proceeded in the matter and the date for taking physical possession of the secured asset i.e. the subject property is now fixed for tomorrow (10.06.2026). We are of the opinion that the

MINAL SANDIP PARAB Digitally signed by MINAL SANDIP PARAB Date: 10.06.2026

petitioners have indeed made out a case of grave urgency in the matter and hence the petition is taken up for consideration.

4. The learned counsel for the petitioners is pressing for interim relief in the present petition as it is submitted that if the act of taking physical possession of the secured asset is completed tomorrow (10.06.2026), it would cause grave prejudice to the petitioners despite the fact that the contentions raised on their behalf in the securitisation application have not been considered on merits.

5. The respondents have appeared through counsel and they are opposing grant of interim relief. The assertions made in the petition are contested and it is submitted that no case is made out for granting interim relief.

6. Issue notice, returnable on 07.07.2026; to be listed in the supplementary list.

7. This Court is inclined to grant ad-interim relief to the petitioners for the following reasons:-

A. It is an undisputed position that interim relief in favour of the petitioners has been operating from 19.04.2022 in terms of an order passed on the said date by the DRAT. The said order was subsequently confirmed on 07.12.2023 and the DRT was directed to consider the securitisation application on merits, with the auction purchasers i.e. respondent Nos.2 and 3 being added as parties to the said proceedings. It is to be noted that the interim order was continued by consent till the disposal of the securitisation application;

B. The DRAT granted interim relief to the petitioners on their depositing an amount of Rs.26 lakhs before the DRAT;

C. The documents on record show that on 27.11.2025, the hearing on the securitisation application of the petitioners was adjourned to 18.06.2026, as the post of the presiding officer was vacant. Accordingly, the securitisation application was supposed to come up for consideration on 18.06.2026;

D. The record also shows that prior to the said date of 18.06.2026, on 30.12.2025, the securitisation application appears to have been listed, which was simply adjourned to 02.01.2026. Thereafter, the securitisation application appears to have been listed on 17.04.2026, when it was recorded by the DRT that since there was no representation on behalf of the petitioners on earlier dates as well as on the said date, the securitisation application deserved to be dismissed and accordingly, it was dismissed for want of prosecution. It is to be noted that the petitioners have placed on record copy of an affidavit sworn by the advocate representing them before the DRT, specifically stating that none of the e-mails or notices, allegedly intimating the advancement of the dates of hearing of the securitisation application before the DRT, were ever received;

E. Considering the affidavit of the advocate filed before the DRT in support of the application for restoration filed on behalf of the petitioners, we find that the DRT needs to consider the contentions raised on behalf of the petitioners;

F. At paragraph 3.22 of the present petition, the petitioners have stated that the application for restoration was listed on 08.06.2026, when hearing on the same was adjourned. But interim protection was not granted in their favour. It was

submitted that copy of the order passed on 08.06.2026 was not available when the writ petition was filed. The learned counsel appearing for respondent Nos.2 and 3 has tendered a copy of the order passed by the DRT on 08.06.2026, which confirms the fact that the hearing is now adjourned to 23.06.2026 and that no ad-interim relief / interim relief has been granted;

G. We are of the opinion that in the absence of any interim protection, there is every likelihood of the notice dated 06.05.2026 issued by the Tahsildar for taking possession of the secured asset tomorrow (10.06.2026) being executed. This would certainly prejudice the petitioners as interim order has been operating in their favour since 19.04.2022. The petitioners have made out a strong *prima facie* case in their favour for ad-interim protection till the next date of listing.

H. The respondents appearing through counsel intend to oppose the present writ petition and hence, we are inclined to grant ad-interim relief till the next date of listing.

8. Ms. Ghogare, learned counsel waives notice for respondent No.1 and Ms. Kulkarni, learned counsel waives notice for respondent Nos.2 and 3.

9. The respondents shall file their reply affidavits within three weeks from today. Rejoinder affidavit, if any, be filed before the next date of listing.

10. In the meanwhile and till the next date of listing, there shall be ad-interim relief in terms of prayer clause (b), which reads as follows:-

> "(b) that pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court, be pleased to issue an order and injunction restraining the Respondents, their officers, servants, agents, assigns and / or any other person from in any manner taking any further steps in respect of Flat No.2, Aashirwad Apartment, Maharshi Karve Road, Naupada, Thane (W), Thane 400 602 in any manner whatsoever;"

11. We make it clear that the order passed today in this petition will not preclude the DRT from taking up the application for restoration filed on behalf of the petitioners for consideration on its own merits.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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