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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4940 OF 2022

Omkar Buyer Association] .. Petitioner
vs.
State of Maharashtra & Ors.] .. Respondents

Mr.Amit Karle a/w Mr.Niranjan Bhaakr, Ms.Swamini Thakur, Mr.Anurag R. and Ms.Drishti Madhani i/b Bhavake & Associates Advocates for the Petitioner.

Mr.A.A. Naik, APP for the State.

Mr.Abad Ponda, Senior Council a/s Mr.Noorain Patel and Mr.Vinay D. i/b Diamondwala & Co. for Respondent Nos. 5 to 9.

**CORAM : NITIN W. SAMBRE,
SACHIN S. DESHMUKH, JJ**

DATE : 11th JUNE, 2025

P.C.

1. The Petition was listed before this Court, as the Consent Terms entered into between the Petitioner and Respondent Nos.5 and 9, was not complied with. The consequences of the same being a closure report, rather the investigation which is kept in abeyance should have been opened against the Respondents.

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2. The learned senior counsel Mr.Ponda has tendered an Affidavit during the course of hearing today, which is taken on record. The Affidavit is duly sworn by one Mr.Kirit Mehta, authorized signatory of the Respondent No.9. The said Affidavit reads thus :

"I, Kirit Mehta, Mumbai Indian Inhabitant, the Authorized Signatory of the Respondent No.9, having their office at popular Metal works, Taty Topa Marg, Joglekarwadi, Sion Fish Market Sion (East), Mumbai 400 022, do hereby solemnly affirm and state as under:-

1. I am filing the current Affidavit in order to show upto date the compliance of the Consent Terms dated 7th October, 2024. A copy of consent terms is already on record but for ready reference annexed herewith as Exhibit-"A" is a copy of Consent Terms dated 7th October, 2024.

2. I say and submit that pursuant to the consent terms Respondent No.5 & 9 have agreed to refund the principal amounts paid by the 43 members of the petitioner as per list attached herewith as Exhibit-"B" is the copy of 43 members list of the petitioner.

3. I say that pursuant to the said consent terms five Banks/ NBFC have been agreed to be refunded payment as mentioned below is a copy of list attached herewith as Exhibit-"C" is the copy of list of five Banks/NBFC.

4. I say that in compliance to the said consent terms three out of five banks have been paid full amount and HDFC bank Rs.2, 50,00,000/-have been paid and balance Rs.1, 50, 00, 00/- will be paid on or before 30th June, 2025. I say that as far the India bulls is concerned this Respondent shall pay the settlement amount within 45 days from 11th June, 2025.

5-I say that as per the consent terms the balance principal amount to be paid to the purchaser is Rs. 3,93,49,964/- which shall be paid with 3 months from the date of filing this affidavit and stamp duty will be refunded to the purchasers as recorded in the said Consent Terms.

6. I say and submit that this Respondent have substantially complied with the consent terms and prayed to grant 45 days to pay Banks/NBFC and 3 months from today i.e. date of filing this Affidavit to pay the principal amount to 43 members as mentioned in para 5 hereinabove and comply with the consent terms.”

3. It was expected of the Respondent Nos.5 and 9 to comply with the Consent Terms within the time as was agreed to, which led to the passing of earlier order . However, it is only after the Petitioner circulated this matter before this Court, the Respondent Nos. 5 and 9 yesterday came up before this Court and orally urged that they be granted extension of time to satisfy not only the liability of financial institution, but that of the Petitioners also.

4. The learned senior counsel Mr.Ponda submits that the Court by way of last chance may exercise discretion in favour of Respondent Nos.5 and 9 as they have every intentions to not only to satisfy the debts which they owe to financial institution, but also to the Petitioner . According to him, the same can be done in two parts, (a) the debt of the financial institutions viz. The HDFC Bank, India Bulls Finance Company etc. shall be satisfied within 45 days from today and (b) the entire balance liability towards the Petitioner shall be satisfied within a period of 45 days thereafter.

5. Considering the conduct of Respondent Nos.5 and 9, we were little hesitant in exercising the discretion in favour of Respondent Nos.5 and 9, however, it is only upon an assurance given by the learned senior counsel Mr. Ponda through the aforesaid Affidavit and subject to payment of costs of Rs.5,00,000/- to be deposited within a period of one week from today in following account viz. **Account No. 607002010001287, Account Name : Comptroller, MAFSU, Nagpur, Union Bank of India, IFSC Code : UBINO560707** we deem it appropriate to grant extension as under :

a) Respondent Nos.5 and 9 must report the compliance in regard to the satisfaction of the liability and No Due Certificate to that effect from the financial institutions viz. HDFC Bank and India Bulls Finance Company etc. in any case by 31/07/2025.

List the matter for further consideration and compliance on 31/07/2025.

6. In case, if the compliance in regard to payment of cost is not placed on record within a fortnight from today, the investigating agency shall be free to revive the investigation against Respondent Nos.5 and 9 without further reference to the Court.

7. We further clarify that as regards the liability to be satisfied in

favour of the Petitioner by Respondent Nos.5 and 9, as has been mentioned in the aforesaid Affidavit, same shall be dealt with on the next date of hearing.

(SACHIN S. DESHMUKH, J)

(NITIN W. SAMBRE, J)