IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (L) NO.504 OF 2026

IN

WRIT PETITION NO.475 OF 2026

Vasai Vikas Sahakari Bank Limited … Applicant

In the matter between:

Vasai Vikas Sahakari Bank Limited … Petitioner

Vs.

Joint Registrar, National Company Law Tribunal, Mumbai Bench and others … Respondents

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Mr. Manoj Kumar Mishra i/b. Mishra Legals for Applicant / Petitioner.

Mr. Jeet Gandhi a/w. Mr. Rahul Arora for Respondent No.2 - DRT.

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

DATE : MARCH 05, 2026

P.C. :

. Heard Mr. Mishra, learned counsel for the applicant / petitioner.

2. On 30.01.2026, this Court had issued notice to the respondents, including respondent No.1 i.e. Joint Registrar of the National Company Law Tribunal (NCLT), Mumbai. This Court referred to the Division Bench judgement passed by a co-ordinate Bench of this Court in the case of *Bank of Baroda Vs. Union of India*, **2024 SCC OnLine Bom. 3964**. The said judgement dealt with the issue of certain parties simply filing applications before the NCLT under Sections 94 and 95 of the Insolvency and Bankruptcy Code, 2016 (IBC) and then claiming that interim moratorium had been triggered under Section 96 of the IBC the moment such applications were filed in the Registry of the NCLT.

MINAL SANDIP PARAB Digitally signed by MINAL SANDIP PARAB Date: 2026.03.06 15:12:23 +0530

3. After deliberating upon the issue as to whether the interim

moratorium was triggered the moment the application was filed in the Registry of the NCLT, this Court in the aforesaid judgement referred to Rules 28 and 63 of the National Company Law Tribunal Rules, 2016. After taking note of the fact that parties were taking advantage of simply filing such applications in the Registry of the NCLT and then enjoying interim moratorium, the Division Bench of this Court in the said judgement, specifically laid down timelines as to the manner in which the objections upon filing of applications in the registry of the NCLT were to be dealt with and the consequence of non-compliance with such timelines.

4. The relevant portion of the said judgement in the case of **Bank of Baroda Vs. Union of India** (*supra*) reads as follows:-

> "13. In order to address the issue pertaining to delay in compliance with Rule 28 of NCLT Rules and to ensure that the scheme of the provisions pertaining to personal guarantors is not defeated by an extended interim moratorium, to streamline the procedure and to ensure expeditious listing of the matters before the Tribunal, the following timelines and process are being laid down to be applicable for proceedings filed under Sections 94 and 95 IBC:
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> (*a*) Respondent 2 will notify the objections in accordance with Rule 28(2) within a period of 7 days from filing of the Section 94 or Section 95 applications.
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> (*b*) Respondent 2 will issue a notice under Rule 28(2) on a monthly basis notifying the matters where the objection has not been removed within the period of 7 days as provided by Respondent 2.
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> (*c*) Within a period of 15 days from the issuance of the notice mentioned in clause (*b*) above, Respondent 2 will issue a notice under Rules 28(3) and 28(4) stating that matters where compliance is not carried out will be proceeded to be dealt with in accordance with Rule 28(4). The time-frame given for compliance in this notice will be 30 days from the date of notice. On the expiry of such period of 30 days, Respondent 2 shall within a period of 7 days issue a notice under Rule 28(4) declining to register the matters where

> compliance has not been carried out. Within the said period of 7 days the online status must be immediately updated to "dismissed as declined to register".
>
> (*d*) Where the applicant purported to comply with the objections notified and refiles the application, Respondent 2 shall scrutinise the said purported compliance within a period of 7 days from such refiling of the application. It is made clear that the if the applicant has not complied, then Respondent 2 shall within a period of 7 days issue a notice under Rule 28(4) declining to register the application.
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> 14. The abovementioned timelines and procedure are being laid down after hearing the respondents at great length. These timelines shall be adhered to.
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> 15. In addition to the above, considering that interim moratorium commences on e-filing of the applications i.e. uploading of the document prior to any scrutiny, there is a possibility that parties who have had their applications declined due to failure to comply with the notices and timelines issued by Respondent 2, proceed to e-file their applications again. In such cases, the aggrieved persons have a remedy under Rule 63 of the NCLT Rules to prefer an appeal within the period stipulated. Any application which had earlier been dismissed and is refiled without resorting to the due process under law, ought not to be considered valid and shall not be considered as "filed" for the purposes of Section 96 IBC. The same shall be ignored and no cognizance shall be taken of the same."

5. In the present case, the grievance of the petitioner bank (secured creditor) is that the borrowers i.e. respondent Nos.3, 4 and 5 are indulging in filing of applications before the NCLT in a collusive manner through third parties, repeatedly and then seeking the shelter of interim moratorium triggered under Section 96 of the IBC. It is submitted that in the latest of such efforts, respondent No.6 claiming to be a creditor in respect of a debt wherein respondent Nos.3, 4 and 5 were guarantors, filed an application under Section 95 of the IBC before the NCLT. Taking advantage of the filing of the said proceeding, respondent

Nos.3, 4 and 5 are seeking to stall proceedings undertaken lawfully by the petitioner bank as a secured creditor under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

6. It is submitted that the said respondents brought to the notice of the Debts Recovery Tribunal (DRT), Mumbai about the pendency of such proceedings before the NCLT and as a consequence of the same, the DRT is not proceeding with the pending applications on the ground that moratorium is pending or operating due to the pendency of the application before the NCLT.

7. It is the case of the petitioner that in these circumstances, it has been constrained to join the Joint Registrar of NCLT as respondent No.1 and the DRT, Mumbai as respondent No.2 in the present petition.

8. An affidavit of service is tendered, which shows that respondent Nos.1 to 5 have been duly served. Respondent No.2 - DRT is represented by a counsel. As regards respondent No.6 i.e. the applicant before the NCLT, the packet containing the notice has been returned.

9. Be that as it may, since the respondent No.1 - Joint Registrar, NCLT has been served, we expected the said respondent to be present before this Court as paragraph 8 of the order dated 30.01.2026, issuing notice in this petition, specifically recorded the expectation of this Court that the respondent No.1 would place on record correct facts pertaining to the prayers made in the petition before the returnable date so that appropriate directions could be issued.

10. The affidavit of service is taken on record, which shows that the respondent No.1 - Joint Registrar, NCLT was served by hand. The acknowledgment shows such service on 02.02.2026 at 4:01 p.m.

11. In this situation, the learned counsel for the petitioner is pressing for interim relief. He heavily relies upon the aforesaid judgement of the Division Bench of this Court in the case of **Bank of Baroda Vs. Union of India** *(supra)*. He relies upon documents at exhibit-B in Interim Application (L) No.504 of 2026 to assert that the application filed by the respondent No.6 before the NCLT is not registered and therefore, the interim moratorium cannot be said to have been triggered in the facts and circumstances of the present case.

12. We indeed find that the documents placed on record show that while the Registry of the NCLT i.e. respondent No.1 issued defects on the application filed by the respondent No.6 and the application is stated to have been refiled, there is nothing to show that the application filed by respondent No.6 was registered. There is also nothing to show that the timelines specifically laid down in the above-quoted paragraph 13 of the judgement of this Court in the case of **Bank of Baroda Vs. Union of India** *(supra)* were adhered to and therefore, the consequence must follow.

13. We find that a number of defaulting debtors are now taking the shelter of Sections 94, 95 and 96 of the IBC. In fact, we find that in cases where such defaulting debtors are unable to make out their case on merits before the DRT, they either themselves or in connivance with willing parties and in a collusive manner initiate proceedings under the said provisions of the IBC before the NCLT, claiming that the moment such a proceeding is initiated, interim moratorium is triggered and the lawful actions being undertaken by secured creditors cannot be proceeded with. The said provisions of the IBC are being misused by such defaulting chronic debtors and the writ court cannot be oblivious of the consequences. In any case, in the present matter, the respondent Nos.3, 4 and 5 have chosen not to appear before this Court despite

service. The documents placed on record do make out a strong *prima facie* case for the petitioner to contend that in the absence of the mandate of law as laid down by this Court in the case of **Bank of Baroda Vs. Union of India** *(supra)* being followed and there being nothing to show that the application filed by respondent No.6 before the NCLT has been duly registered, it cannot be said that interim moratorium has been triggered.

14. In the light of the fact that the petitioner has made out such a strong *prima facie* case, we are inclined to grant interim relief. We also find that since the petitioner bank, as a secured creditor, is seeking to proceed in a lawful manner for recovery of its debt, the balance of convenience clearly is in favour of the petitioner and it will indeed suffer grave and irreparable loss unless interim relief is granted.

15. In view of the above, list this petition for further consideration on 06.04.2026, High on Board. In the meanwhile, the orders dated 06.06.2025 and 09.06.2025 passed by the DRT-III, Mumbai in Securitisation Application No.195 of 2025 are stayed. The consequence thereof is that the proceedings in the said pending securitisation application shall continue until further orders.

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

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