

jsn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.7549 OF 2025

JITENDRA  
SHANKAR  
NIJASURE

Digitally signed by  
JITENDRA SHANKAR  
NIJASURE  
Date: 2025.10.14  
14:42:43 +0530

Enforce Asset Reconstruction Co. Pvt. Ltd. ...Petitioner

*Versus*

Union of India & Ors. ...Respondents

-----  
Mr. Cyrus Ardeshir, Senior Counsel with Mr. Archit Virmani and Mr. Daneal P. for the Petitioner.

Ms.Divya Nakrani i/b. Mr. M.S. Bhardwaj for Respondent No.1 – UoI.  
Mr. Rui Rodrigues for Respondent No.2.

Ms. Mamta Harwani i/b. Ms. Miloni Gala for Respondent No.3.

Mr. Bhavin Gada with Ms. Pratibha Mehta for Respondent Nos.9 and 10.

-----  
CORAM : R.I. CHAGLA AND  
FARHAN P. DUBASH, JJ.

DATE : 14TH OCTOBER, 2025.

**ORDER :**

1. At the outset Mr. Cyrus Ardeshir, the learned Senior Counsel has sought permission of this Court to amend the Writ Petition by joining the Registrar of DRT – I and DRT – II and add appropriate prayers against them. Permission is granted.

2. The Petitioner shall carry out the amendment in the Writ Petition by tomorrow i.e. 15th October, 2025. Re-verification is dispensed with.

3. By this Writ Petition, the Petitioner is seeking a direction to the Respondent No.2 to decline to register the Section 94 Petitions bearing Filing numbers mentioned in prayer Clause (f) of the Petition as well as direction calling for the records of the Section 94 Petitions bearing Filing numbers mentioned in prayer Clause (g) of the Petition and to declare that interim moratorium has ceased to operate in terms of Section 96 of IBC.

4. Mr. Ardeshir has moved this Petition by way of urgency on the ground that the DRT – II is in the process of hearing Interim Application (L) No.2310 of 2025 filed by Respondent No.6 for stay on the effect and operation of possession Notice dated 22nd September, 2024 issued in respect of the subject property pursuant to the Order under Section 14 of the SARFAESI Act passed by the CMM, Mumbai. He has submitted that the ground made out in the Interim Application for stay is that there is purportedly an interim moratorium which has been declared in respect of the subject

property which is owned by Respondent Nos.3 and 4 by placing reliance upon the status of refiling of Section 94 Petition which has been filed by the Respondent No.4 before the NCLT.

5. Mr. Ardeshir has referred to paragraph 15 of the judgment of the Division Bench of this Court in *Bank of Baroda V/s. Union of India Through the Ministry of Corporate Affairs & Anr.*<sup>1</sup>, wherein the Division Bench has considered that interim moratorium commences on e-filing of the applications i.e. uploading of the document prior to any scrutiny. It is observed that there is a possibility that parties who have had their applications declined due to failure to comply with the notices and timelines issued by the NCLT, proceed to refile their applications. In such cases, it is observed that aggrieved persons have a remedy under Rule 63 of the NCLT Rules to prefer an appeal within the period stipulated. It is further observed that any application which has been earlier dismissed and refiled without resorting to the due process under law, ought to be considered not valid and shall not be considered as 'filed' for the purposes of Section 96 of the IBC.

---

<sup>1</sup> Writ Petition (L) No.34152 of 2023 dated 3rd May, 2024.

6. Mr. Ardeshir has submitted that the DRT-II in considering the aforementioned Interim Application (L) No.2310 of 2025 is required to pay due regard to the said Order dated 3rd May, 2024 passed by the Division Bench of this Court by not considering the refiling of the Petitions before the NCLT by Respondent No.4 when the earlier Petition had been dismissed and without resorting to the due process under law i.e. Rule 63 of the NCLT Rules. He has accordingly sought appropriate directions to DRT -II in this regard.

7. We have also heard Counsel for auction purchaser who has supported the submission of Mr. Ardeshir.

8. The Respondents other than Respondent No.3 have been served with the present Writ Petition.

9. In the present case, the Petition which was e-filed by Respondent No.4 had been declined registration on 12th November, 2024 vide Notice issued by the NCLT, Mumbai Bench in terms of Rule 28 (4) of the NCLT Rules, 2016. However, the current status of the NCLT website shows that the case is under e-filing.

10. We expect that whilst considering Interim Application (L) No.2310 of 2025, the Presiding Officer of DRT - II shall give due regard to the said Order dated 3rd May, 2024 passed by the Division Bench of this Court and in particular paragraph 15 of the said Order in considering whether to grant a stay on the effect and operation of possession Notice dated 22nd September, 2024 issued in respect of the subject property pursuant to the Order under Section 14 of the SARFAESI Act passed by the CMM, Mumbai by relying upon the interim moratorium under Section 96 of the IBC.

11. The Writ Petition shall be placed for further consideration on 11th November, 2025.

12. The Petitioner shall forthwith serve the Writ Petition upon Respondent No.3. The Respondents are permitted to file Affidavit in Reply within a period of two weeks from today.

[ FARHAN P DUBASH, J. ]

[ R.I. CHAGLA J. ]