

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

**INTERIM APPLICATION (L) NO. 10149 OF 2026
IN
WRIT PETITION NO. 475 OF 2026**

Vasai Vikas Sahakari Bank Limited ... Petitioner

In the matter between :

Vasai Vikas Sahakari Bank Limited ... Petitioner
Versus

The Joint Registrar, National Company Law
Tribunal, Mumbai Bench & Anr. ... Respondents

**WITH
INTERIM APPLICATION (L) NO. 9725 OF 2026
AND
INTERIM APPLICATION (L) NO. 504 OF 2026
IN
WRIT PETITION NO. 475 OF 2026**

Mr. Manoj Kumar Mishra a/w Zulfiq Multani i/by Mishra Legal
for Petitioner and for Applicant in IAL/10149/2026.

Mr. Shreeyash Lalit (through V.C.) a/w Ms. Shweta R. Rathod i/by
Elixir Legal Services for Respondent Nos.3 to 5 and for Applicant
in IAL/9725/2026.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 23rd MARCH 2026

P.C. :

- . Heard learned counsel for the parties.
2. These two applications have been taken on production

board, due to urgency projected on behalf of the petitioner-bank (secured creditor), as also the original respondent No.3 in the writ petition i.e. a personal guarantor of the original borrower (respondent No.6).

3. The applications have been filed in the backdrop of interim order dated 5th March 2026 passed by this Court, whereby the contentions raised in the writ petition were considered in detail and upon finding that a strong *prima facie* case was made out, an interim order was granted. Accordingly, orders passed by the Debts Recovery Tribunal-III, Mumbai (DRT-III) in Securitisation Application No. 195 of 2025 were stayed.

4. The consequence thereof was that the petitioner-bank issued notice dated 7th March 2026 for sale of the secured asset under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act). The notice specified that the auction would be conducted on 24th March 2026 at 2:00 p.m. i.e. tomorrow.

5. In the interim order it was also recorded that respondent Nos.3, 4 and 5 had chosen not to appear before this Court, despite service of notice. This Court further directed the writ petition to be taken up for consideration on 6th April 2026.

6. It is in this backdrop that the respondent No.3 filed Interim Application (Lodging) No. 9725 of 2026 for recall and setting aside of the interim order dated 5th March 2026 passed in the writ

petition and consequently, for vacating the interim stay. The petitioner-bank filed Interim Application (Lodging) No. 10149 of 2026 for a direction that the petitioner be allowed to continue with the action being undertaken as per the provisions of the Securitisation Act.

7. The learned counsel appearing for respondent Nos.3 i.e. the applicant in Interim Application (Lodging) No. 9725 of 2026 submitted that the nature of the interim order dated 5th March 2026 passed by this Court is such that it amounts to granting final relief at interim stage to the petitioner-bank and the proceeding pending before the DRT-III would be rendered meaningless, if the interim order granted by this Court continues to operate. It was further submitted that the interim order was passed without hearing the affected party and that the order seriously prejudices the applicant (respondent No.3).

8. The learned counsel for the applicant (respondent No.3) further submitted that in the reply affidavit to the writ petition, which was prepared but was yet to be filed, it was indicated by the said respondent that he intended to file a fresh application under Section 94 of the Insolvency and Bankruptcy Code, 2016 (IBC) before the National Company Law Tribunal (NCLT). It was brought to the notice of this Court, as is also evident from the contents of the application filed on behalf of the petitioner-bank, that on 19th March 2026, the said applicant (respondent No.3) actually went ahead and filed such an application before the

NCLT. It was submitted that the interim order dated 5th March 2026 passed by this Court, was *inter alia* on the basis that earlier applications filed before the NCLT were lying in defect and they were not actually registered. Therefore the applicant (respondent No.3) was under an impression that if a fresh application is filed and registered, the interim moratorium would operate under Section 96 of the IBC and the same would not be affected by the interim order dated 5th March 2026 passed by this Court. It was further submitted that the moratorium operates as a consequence of the specific provisions of law and therefore, the subsequent event of filing of the application under Section 94 of the IBC on the part of the applicant (respondent No.3) on 19th March 2026 ought to be taken into consideration by this Court, while passing any order on the application for recall of the interim order dated 5th March 2026. It was submitted that there was no question of the applicant (respondent No.3) overreaching this Court, in any manner, and therefore, this Court may consider allowing the application. It was further submitted that if the interim order dated 5th March 2026 continues to operate, the proposed auction for tomorrow will be conducted and it would render infructuous the application filed by respondent No.3.

9. On the other hand, the learned counsel appearing for the applicant (petitioner-bank) in Interim Application (Lodging) No. 10149 of 2026 submitted that the apprehension expressed by the petitioner-bank before this Court when the interim order dated 5th

March 2026 was passed, has come true as the respondent No.3 has again filed the aforesaid application on 19th March 2026 before the NCLT under Section 94 of the IBC. It was submitted that the respondent No.3 has clearly sought to overreach the interim order dated 5th March 2026 passed by this Court and also has shown scant regard for the authority of the writ Court. It was submitted that the whole design and purpose behind filing of the application on 19th March 2026 is to somehow bring to a halt the proceedings even before this Court and to nullify the effect of the interim order dated 5th March 2026.

10. It was further submitted that the said application filed by the respondent No.3 on 19th March 2026 was listed today before the NCLT, wherein the petitioner-bank appeared through counsel and vehemently opposed the same, pointing out that even a copy of the deed of guarantee was not placed on record. This Court was informed that after hearing the counsel, the NCLT dismissed the application, but the order is yet to be uploaded. In this backdrop, it is submitted that this Court may dismiss the application filed by the respondent No.3 and on the other hand, allow the aforesaid interim application filed on behalf of the petitioner-bank.

11. We have considered the rival submissions. It is necessary to note the chronology of events in the present case. On 5th March 2026, this Court passed the interim order after taking into account the submissions made on behalf of the petitioner-bank, which is a secured creditor, that the respondents are indulging in filing

proceeding after proceeding under the provisions of the IBC before the NCLT, only with the intention of frustrating the action undertaken by the petitioner-bank as per the provisions of the Securitisation Act. This Court took note of the fact that the proceedings initiated on behalf of the respondents before the NCLT continued to lie in defects and that the respondents were seeking to take benefit of merely filing such proceedings before the NCLT under the provisions of the IBC. After referring to the judgment of Division Bench of this Court in the case of *Bank of Baroda vs. Union of India*, 2024 SCC OnLine Bom 3964, it was found that the petitioner-bank had indeed made out a strong *prima facie* case in its favour. Thereupon, interim order in aforementioned terms was passed on 5th March 2026. the relevant portion of the said order reads as follows :

*“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.”

12. The respondent No.3 appears to have prepared the application for recall of the aforesaid order of this Court, by swearing an affidavit in support thereof on 16th March 2026. The grounds taken in the said application have been referred to hereinabove. On 18th March 2026, the said application filed on behalf of respondent No.3 was mentioned before this Court for

urgent listing. It was submitted that after the interim order dated 5th March 2026 was passed by this Court, on 7th March 2026, the petitioner-bank had issued notice for sale of the secured asset and the auction was fixed for 24th March 2026.

13. It was submitted that therefore, there was urgency in the matter and instead of taking the petition for further consideration on 6th April 2026, which was the returnable date, an earlier date may be granted. On this basis, this Court directed the aforesaid application filed by respondent No.3 to be listed today.

14. Thereafter, on 19th March 2026, the respondent No.3 filed the aforementioned application under Section 94 of the IBC. The said application was found to be defect free and it was registered on 20th March 2026. As noted hereinabove, the respondent No.3 now claims that since a fresh application under Section 94 of the IBC has been filed and moratorium has been triggered upon registration of the said application, the said factor ought to be taken into consideration while passing any order on the application for recall of the interim order dated 5th March 2026.

15. We find the conduct of respondent No.3, *prima facie*, nothing short of an attempt to overreach this Court exercising writ jurisdiction. The very fact that the aforesaid application was filed by the respondent No.3 on 19th March 2026, shows that this was nothing but another attempt on the part of the respondents to somehow evade the inevitable. The application seeking recall of the interim order dated 5th March 2026 obviously could not have

referred to the said application filed under Section 94 of the IBC, as it was subsequently filed on 19th March 2026. But, today, when the application is pressed for orders, reliance is being placed on the said subsequent event. We find this to be an attempt to somehow seek recall of the interim order dated 5th March 2026 on the basis of events triggered by the respondent No.3 i.e. the applicant himself, after the said order was passed.

16. Apart from this, as a writ Court, we are entitled to verify and examine the bonafide of the application filed on 19th March 2026 before NCLT under Section 94 of the IBC. A copy of the said application is annexed at Exhibit 'F' to Interim Application (Lodging) No. 10149 of 2026 filed by the petitioner-bank. We find that while the applicant i.e. the respondent No.3 herein claims to be a personal guarantor, but even a copy of the deed of guarantee is not annexed to the application. There is nothing to show as to whether such a deed of guarantee at all exists and as to whether it is even a registered document. The documents filed along with the said application and the manner in which it has been filed on 19th March 2026, gives a *prima facie* impression to this Court that the same has been filed only with the object of frustrating and defeating even the proceedings before this Court filed by the petitioner-bank, invoking our writ jurisdiction. In a recent order dated 18th March 2026 passed in Writ Petition (Lodging) No.5157 of 2026 in the case of *Rozina Firoz Hajiani & Ors. vs. Union of India & Ors.*, we had an occasion to consider

the disturbing trend on the part of chronic defaulters to take resort to the provisions of the IBC in a desperate attempt to somehow subvert the actions lawfully undertaken by the secured creditors against borrowers and guarantors. In the said order, we took note of the fact that such actions are completely antithetical to the object of the IBC.

17. The object of the IBC is to ensure that insolvency resolution of corporates and individuals is undertaken in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interest of all stake holders. The IBC emphasizes upon an effective legal frame work for timely resolution of insolvency and bankruptcy, so that an opportunity is made available for revival of the debtor to support development of credit markets and to encourage entrepreneurship, with liquidation being the last resort. The whole purpose of enactment of IBC is for improving the ease of doing business, facilitating more investments, leading to higher economic growth and development in the country.

18. We find that the petitioner has made out a strong *prima facie* case before this Court to demonstrate that the respondent No.3 by undertaking the aforesaid action is not only seeking to overreach this writ Court, but the actions undertaken are in the teeth of the very object of enactment of the IBC.

19. The writ Court cannot remain a mute spectator to such activities undertaken by the respondent No.3 and therefore, we

find much substance in the contentions raised on behalf of the petitioner-bank.

20. Although, the order passed today by the NCLT, purportedly dismissing the application filed by respondent No.3, is not available, but it is not disputed before us on behalf of the respondent No.3 that the said application has been indeed dismissed. Hence, there is no basis for respondent No.3 to claim that moratorium is operating by filing of the said application on 19th March 2026 before the NCLT.

21. In the face of such facts, we do not find it necessary to pass any order today in the application for recall filed on behalf of the respondent No.3. On the contrary, we find that interdicting the process now undertaken by the petitioner i.e. the secured creditor by issuing the public notice for auction, would be counter productive and not in the interest of justice.

22. In view of the above, we direct the petitioner-bank to proceed in accordance with law in terms of the protection granted by the interim order dated 5th March 2026.

23. The petitioner-bank is permitted to file reply affidavit in Interim Application (Lodging) No. 9725 of 2026 filed on behalf of respondent No.3, within a period of two weeks from today. Similarly, the respondent No.3 is granted time of two weeks to file reply affidavit in Interim Application (Lodging) No. 10149 of 2026 filed by the petitioner-bank.

24. In the light of the adjournment of the proceedings for filing of reply affidavits in the interim applications, the writ petition along with pending applications, shall be taken up for further consideration on 8th April 2026 (High on Board).

25. In the meanwhile, the respondents are also at liberty to file their reply affidavits in the writ petition.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)