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

**WRIT PETITION NO. 3842 OF 2026**

M/s. Ravijyot Finance and Leasing Pvt. Ltd. …Petitioner
Versus
Unity Small Finance Bank Limited …Respondent

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Mr. Debesh Panda a/w. Mr. Ashish Venugopal, Mr. Shubhra Swami, Mr. Akshay Naik, for the Petitioner
Mr. Nitin Thakker, Senior Advocate a/w. Ms. Saloni Kapadia, Ms. Daksha Kasekar, Ms. Shailaja Beria i/b. Cyril Amarchand Mangaldas, for Respondent No. 1 Bank.

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VISHAL SUBHASH PAREKAR
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Date: 2026.08.17 18:54:43 +0530

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

**DATE : 17th AUGUST, 2026**

**P.C. :**

1. Heard the learned counsel for the Petitioner. The Respondent-Bank is also represented by learned counsel.

2. This Petition is filed and circulated urgently today on the ground that its sale notice dated 22nd July, 2026 fixes sale of the subject property for today. Considering the urgency of the matter, circulation was granted for today and the Petition is taken up for consideration.

3. The learned counsel for the Petitioner submitted that in the face

of admitted position on facts and the manner in which the proceedings initiated by the Respondent- Bank have taken shape before the National Company Law Tribunal (NCLT) under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC), on a proper reading of the relevant provisions of IBC, this Court ought to to interdict the Respondent Bank from going ahead with the sale of the subject property.

4. In that context, learned counsel for the Petitioner referred to various provisions of the IBC, including Sections 96, 100, 101, as also 121 and 122 thereof.

5. It was submitted that the Respondent Bank, as a creditor itself, initiated the proceedings under Section 95 of the IBC, which have now reached the stage of Section 100 thereof. Even though the moratorium period of 180 days is over and there is no extension granted by the NCLT, until and unless the process reaches its logical conclusion in the form of application of mind and thereupon an order being passed by the NCLT, resulting in a situation where recourse can be had to Sections 121 and 122 of the IBC, the Respondent Bank cannot be permitted to proceed further with the intended sale of the subject property.

6. On the other hand, the learned Senior Counsel appearing for the Respondent Bank raises objection with regard to the very maintainability of this petition. Amongst other arguments, it is submitted that the Petitioner has the alternative, efficacious statutory remedy of approaching the Debt Recovery Tribunal (DRT) under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act), if at all it has any objection with the subject sale notice dated 22nd July, 2026.

7. It is further brought to our notice that the petitioner, admittedly, has earlier filed a Securitisation Application before the DRT challenging the first sale notice issued by the Respondent Bank, and the said proceeding is still pending.

8. It is further brought to our notice that the petitioner is a mortgagor and cannot couch its arguments as if it is a creditor. This clearly demonstrates that the question of law sought to be raised on behalf of the Petitioner ought not to be considered by this Court. In this backdrop, attention of this Court is also invited to proceedings in Commercial Suit (L) No. 9866 of 2026. It is submitted that the Petitioner, despite being the mortgagor, has challenged the very

mortgage itself in the said suit, claiming that the subject documents are forged and fabricated. In the said pending suit also, an attempt was made by the Petitioner by filing Interim Application (L) No. 9874 of 2026 for seeking urgent interim relief in order to stall the sale proceedings by way of auction. By an order dated 24th March, 2026, the learned Single Judge of this Court rejected the prayer for urgent ad-interim relief, *inter alia*, observing that the Petitioner indeed has the remedy of approaching the Debt Recovery Tribunal.

9. Having considered the elaborate submissions made on behalf of the Petitioner in the context of the aforementioned provisions of the IBC, we are not impressed, firstly for the reason that the petitioner is a mortgagor of the subject property. An impression was sought to be created that the petitioner was a creditor and that the respondent Bank was a creditor that was breaking ranks from other creditors, which ought not to be permitted under the scheme of the IBC. On a pointed query put to the learned Counsel for the petitioner as to the details of the other creditors, there was no answer forthcoming, and it was submitted that if time is granted, the details could be placed before this Court.

10. Considering the tenor of submissions made on behalf of the

Petitioner, we are of the opinion that this is another attempt of a mortgagor to somehow wriggle out of the situation and not taking recourse to the statutory remedy available under the provisions of the Securitisation Act. In the face of such an alternative, efficacious statutory remedy available to the Petitioner, we are not inclined to entertain the present Writ Petition.

11. The Supreme Court on a number of occasions has indicated, including in the cases of **United Bank of India vs. Satyawati Tondon**[1] and **Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.**[2], that in the face of availability of such a statutory remedy, the High Courts exercising writ jurisdiction under Article 226 of the Constitution of India ought not to show any indulgence. As a matter of fact, in the case of **Celir LLP** (supra) the Supreme Court was constrained to observe as follows:

> 101] More than a decade back, this Court had expressed serious concern despite its repeated pronouncements in regard to the High Courts ignoring the a availability of statutory remedies under the RDBFI Act and the SARFAESI Act and exercise of jurisdiction under Article 226 of the Constitution. Even after, the decision of this Court in Satyawati Tondon, it appears that the High Courts have continued to exercise its writ jurisdiction under Article 226 ignoring the statutory remedies under the RDBFI Act and the SARFAESI Act.

1 (2010) 8 SCC 110.
2 (2024) 2 SCC 1.

12. It is an admitted position that, the Petitioner has admittedly already taken recourse to the said statutory remedy while challenging the first sale notice, and that the proceeding is still pending. As noted here-in-above, the learned Single Judge of this Court in Commercial Suit (L) No. 9866 of 2026 also declined urgent interim relief, *inter alia*, referring to availability of remedy of approaching the DRT.

13. We also find that the question of law sought to be raised, by referring to the aforementioned provisions of the IBC, is nothing but another desperate attempt on the part of the Petitioner to somehow avoid steps being taken by the Respondent Bank, which is a secured creditor, in terms of the provisions of the Securitisation Act.

14. The learned Senior Counsel appearing for the Respondent Bank referred to judgment of this Court in the case of **Nanda Takwane and Others vs. The State of Maharashtra**[3] and judgment and order dated **28th July 2023** passed **in Writ Petition (L) No. 9116 of 2023 (Mr. Latif Yusuf Manikkoth and Anr. vs. The Board of Directors, Bank of Baroda).** Reliance was placed on the said judgments to contend that moratorium would not apply or impact to the subject property, which exclusively belongs to the Petitioner as a mortgagor. It was

3 2026 SCC OnLine 5212.

emphasized that the property does not belong to the borrower, and therefore, the submissions made on behalf of the Petitioner with regard to the alleged question of law that arises in this Petition in the context of the provisions of the IBC ought not to be considered. We are of the opinion that the said aspect need not be gone into, as we are inclined to dismiss this Petition on the ground of the availability of efficacious alternative remedy itself.

15. We also find substance in the contention raised on behalf of the Respondent Bank that the present Writ Petition is not maintainable as the Respondent is a private bank and as per settled law, a Writ Petition against private bank is not maintainable. It is to be noted that Respondent- private Bank is the sole Respondent in this Petition and therefore on this ground also, the Writ Petition deserves to be dismissed.

16. The Petitioner also did not disclose the fact that the moratorium was not extended by the NCLT. It was only when the learned Senior Counsel appearing for the Respondent Bank tendered a copy of an order dated 1st July, 2026 passed by the NCLT that the aforesaid fact came to light. This is another reason why the Petitioner does not deserve any indulgence from the writ Court. It is a settled position of

law that when a party approaches the writ Court, it has to come with clean hands. The Supreme Court in the case of **Udyami Evam Khadi Gramodyog Welfare Sanstha and Another vs. State of Uttar Pradesh and Others**[4], in this context, has observed as follows:

> 16] A writ remedy is an equitable one. A person approaching a superior court must come with a pair of clean hands. It not only should not suppress any material fact, but also should not take recourse to the legal proceedings over and over again which amounts to abuse of the process of law. In Advocate General, State of Bihar v. M.P. Khair Industries[3] this Court was of the opinion that such a repeated filing of writ petitions amounts to criminal contempt.

17. In view of the above, the writ petition is dismissed. Pending applications, if any, also stand disposed of.

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

4 (2008) 1 SCC 560.