IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VISHAL SUBHASH PAREKAR

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Date: 2026.10.19 18:33:13 +0530

WRIT PETITION NO. 13980 OF 2026

Rajesh Khimji Gala …Petitioner

Versus

Union of India and Others …Respondents

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Mr. Shanay Shah a/w. Mr. Nilesh Gala, Mr. Manish Gala, Mr. Manis, Mr. Tejas Popat and Minil Shah i/b. Law Square, for the Petitioner.
Mr. Alok Mishra a/w. Ms. Juilee Modak, for Respondent No. 6.
Mr. Karl Tamboly a/w. Mr. Viraj Parikh i/b. Indrajeet Hingare, for Respondent Nos. 3 to 5.

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

DATE : 19th OCTOBER, 2026

P.C. :

1. Heard learned counsel for the petitioner (auction purchaser).

2. The petitioner is aggrieved by order dated 02.09.2026 passed by the Debts Recovery Tribunal–II, Mumbai (DRT), whereby an application for amendment of the pending Securitisation Application filed on behalf of respondent Nos. 3 to 5 (original borrowers) has been allowed.

3. We are inclined to entertain this writ petition despite availability of alternative statutory remedy of filing an appeal before

the Debts Recovery Appellate Tribunal (DRAT), for the reason that *prima facie* we find that the DRT has passed the order in the teeth of binding precedents, including judgment of the Supreme Court in the case of **Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.**[1]. It is a settled position of law that if an order is passed by a court or tribunal in the teeth of binding precedents, it is rendered without jurisdiction as has been held in the case of **M/s. East India Commercial Co. Ltd., Culcutta and Anr. vs. Collector of Customs, Calcutta**[2]**.**

4. We were inclined to issue notice and grant ad-interim stay of the impugned order, when the learned counsel appearing for contesting respondent Nos. 3 to 5 (original borrowers) submitted that he has instructions from the said respondents to give consent for setting aside of the impugned order, with a direction that the application for amendment be considered afresh by the DRT in accordance with law.

5. Since the respondents are conceding to setting aside of the impugned order, the writ petition can be allowed and disposed of. But, even if the application for amendment is to be considered afresh by the DRT, it has to be kept in mind by the DRT that settled position of

1 (2024) 2 SCC 1.
2 AIR 1962 SC 1893.

law will have to be followed and that detailed reasons will have to be recorded while disposing of the application for amendment.

6. The manner in which the amendment application has been allowed by the impugned order cannot be countenanced because it is found to be bereft of any reasoning, despite the drastic effect it has on the petitioner (auction purchaser) as also the secured creditor.

7. In view of the above, the writ petition is allowed.

8. The impugned order dated 02.09.2026 passed by the DRT-II, Mumbai allowing the application for amendment is quashed and set aside.

9. Consequently, DRT-II, Mumbai is directed to consider the application for amendment (Interim Application No. 796 of 2024 in Securitisation Application No. 324 of 2023) afresh and strictly in accordance with law.

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