IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3725 OF 2022

DCB Bank Limited (formerly known as
Development Credit Bank Ltd.) & Anr. … Petitioners
Vs.
The State of Maharashtra, Thr. The District
Magistrate, Sangli & Ors. … Respondents

Mr. Omar Khaiyam Shaikh i/by Vikas Salvi & Associates for Petitioners.
Smt.S.D. Vyas, GP, 'B' Panel for Respondent-State.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.

DATED : 12th AUGUST 2022

<u>P.C.</u> :

1. Petitioners had admittedly taken possession of mortgaged property on or about 30th November, 2021. It is stated that on 1st December, 2021, the Borrower broke open the lock and trespassed into the premises of which physical possession was with Petitioners.

2. It is Petitioners' case that Petitioners had lodged a complaint with all the Respondents about the trespass by a letter dated 1st December, 2021, but no action has been taken. It is Petitioners' case that even it followed up with Respondent Nos.1 and 2, but in vain.

3. There was a similar matter before us, namely, Writ Petition No.2440 of 2022, in which on 21st June, 2022, this Court was pleased to pass the following order :-

> *"**P.C.:***
>
> *1. In this petition, admittedly, petitioner had taken possession of the mortgaged property following an order passed invoking Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for brevity) after following due process of law. As stated in the petition, petitioner took possession of the mortgaged property on or about 24.2.2021. Possession was handed over to the authorized officer of petitioner by respondent no.2- Tahsildar.*
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> *2. After petitioner was put in possession of its secured asset by respondent no.2, petitioner completed the procedure of taking over possession on 24.2.2021. On 3.10.2021, petitioner was shocked to find that lock and seal fixed in the secured asset has been broken and borrower and co-borrower has forcibly removed the seal and took possession of secured asset.*
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> *3. It is petitioner's case that by taking illegal possession of the secured asset, borrowers have committed not only breach of order passed by respondent no.1 but also committed an offence of trespass. Petitioners states that they had complained to the concerned police station and also made certain complaint to the Commissioner of Police but no action has been taken. Hence, petitioner has approached this Court by way of this writ petition.*
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> *4. We understand the agony petitioner's officers are going through due to inaction on the part of the police as alleged. But certainly we are not impressed by petitioner's case that respondent nos.1 and 2 should be directed to once again pass order under the provisions of SARFAESI Act.*
>
> *5. Therefore, relief as prayed for can not be granted. Petition stands dismissed.*

> *6. Notwithstanding above order, Smt.Vyas informs the Court that she will communicate to the concerned to immediately take action on the complaint lodged by petitioner. Though it is a very welcome offer made by Smt.Vyas, in our view, respondent nos.3 and 4 should be directed, which we hereby do, to consider the complaint that has been filed by the petitioner, copy whereof has been annexed to the petition and they shall take further action forthwith.*
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> *7. Mr.Rajani states that he will advice the concerned Branch Manager to approach respondent nos. 3 and 4 who shall on receiving fresh copy of complaint immediately take action.*
>
> *8. No order as to costs."*

4. Respondent No. 3 shall consider the complaint filed by Petitioners on 1st December, 2021, copy whereof is annexed to the Petition and take further action forthwith.

5. Mr. Shaikh states that Petitioner No.2-the Branch Manager/ authorised representative of Petitioner No.1 shall submit a copy of this order to Respondent No.3.

6. Petition disposed. No order as to costs.

(A.S. DOCTOR, J.) **(K.R. SHRIRAM, J.)**