



- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 WRIT PETITION NO. 13691 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED FORMERLY KNOWN AS
ASPIRE HOME FINANCE CORPORATION LIMITED

VERSUS

THE STATE OF MAHARASHTRA DISTRICT MAGISTRATE
AHMEDNAGAR AND OTHERS

AND

18 WRIT PETITION NO. 13692 OF 2024

MOTILAL OSWAL HOME FINANCE LTD., THR AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

AND

20 WRIT PETITION NO. 13696 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED FORMERLY KNOWN AS
ASPIRE HOME FINANCE CORPORATION LIMITED

VERSUS

THE STATE OF MAHARASHTRA DISTRICT MAGISTRATE
AHMEDNAGAR AND OTHERS

AND

21 WRIT PETITION NO. 13697 OF 2024

MOTILAL OSWAL HOME FINANCE LTD., THR AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

AND

22 WRIT PETITION NO. 13698 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED FORMERLY KNOWN AS
ASPIRE HOME FINANCE CORPORATION LIMITED

VERSUS

THE STATE OF MAHARASHTRA DISTRICT MAGISTRATE AND OTHERS
AND

28 WRIT PETITION NO. 13722 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS
AND
29 WRIT PETITION NO. 13723 OF 2024

MOTILAL OSWAL HOME FINANCE LTD., THR AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
AND
30 WRIT PETITION NO. 13724 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED FORMERLY KNOWN AS
ASPIRE HOME FINANCE CORPORATION LIMITED
VERSUS
THE STATE OF MAHARASHTRA DISTRICT MAGISTRATE
AHMEDNAGAR AND OTHERS
AND
31 WRIT PETITION NO. 13725 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICER
VERSUS
THE STATE OF MAHARASHTRA DISTRICT MAGISTRATE
AHMEDNAGAR AND OTHERS
AND
32 WRIT PETITION NO. 13726 OF 2024

MOTILAL OSWAL HOME FINANCE LTD., THR AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
AND
33 WRIT PETITION NO. 13727 OF 2024

MOTILAL OSWAL HOME FINANCE LTD., THR AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
AND

34 WRIT PETITION NO. 13728 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

AND

35 WRIT PETITION NO. 13729 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

AND

36 WRIT PETITION NO. 13730 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

AND

37 WRIT PETITION NO. 13731 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

AND

39 WRIT PETITION NO. 13733 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS

VERSUS

THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

AND

40 WRIT PETITION NO. 13734 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS
AND

42 WRIT PETITION NO. 13744 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS
AND

45 WRIT PETITION NO. 13747 OF 2024

MOTILAL OSWAL HOME FINANCE LIMITED THROUGH ITS
AUTHORISED OFFICERS
VERSUS
THE STATE OF MAHARASHTRA TAHSILDAR AHMEDNAGAR AND
OTHERS

Mr.S.S.Deshpande, Advocate for the petitioner.
Mr.A.B.Girase, Government Pleader for the State.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

DATE : DECEMBER 16, 2024

PER COURT :

1. Heard the learned Advocate for the petitioner, which is the same financial institution in all these writ petitions. We have also heard

the learned Government Pleader.

2. Leave granted to place on record in WP No.13725/2024 a copy of the application moved by the petitioner to the District Magistrate u/s 14 of the SARFAESI Act. Copy shall be placed on record forthwith.

3. The issue involved in all these petitions has already been addressed by this Court in similar matters of the same petitioner in WP No.3646/2024 and connected matters by order dated 10.04.2024.

4. The issue regarding right of a secured creditor to apply second time to the District Magistrate soliciting an order u/s 14 of the SARFAESI Act after it loses possession of the secured assets, allegedly forcibly or illegally by the debtors. The petitioner / financial institution has moved such second applications soliciting orders of the District Magistrate u/s 14 of the SARFAESI Act and obviously seeking its execution so as to enable it to recover back the secured assets.

5. The issue was dealt with by a co-ordinate division bench of

this Court in the matter of the **Nashik Merchant Co-operative Bank Vs. the District Collector, Jalna and others, WP No.10069/2022, decided on 28.02.2023.** It was rendered by referring to the judgment in the matter of **M/s Sri Balaji Centrifugal Castings Vs. M/s ICICI Bank Limited, (2018) SCC Online, Hyd 368** and **A.A.Kumaran Vs. Superintendent of Police, Thissur and others in WP © No.5875 of 2022 dated 18.05.2022.**

6. In the petitioner's earlier matters referred to hereinabove, again the issue had cropped up and this Court had directed the District Magistrate to decide its second applications preferred u/ 14 of the SARFAESI Act.

7. It is even pointed out that the case in the matter of Sri.Balaji Centrifugal (supra) had reached the Supreme Court, which refused to entertain the SLP

8. For the sake of convenience, the learned Advocate for the petitioner has tendered across the bar a chart indicating as to when the possession was recovered earlier and when the second application has been moved before the District Magistrate. It is as under :-

Writ Petition No.	Borrower Name	Date of section 14 order	Date of possession by petitioner	Date of application to District Magistrate after illegal dispossession
WP 13730/2024	Bhanudas Vithal Jadhav	16.08.2019	30.11.2019	29.07.2024
WP 13744/2024	Ravindra Dhonduram Waghmare	11.02.2019	28.05.2019	11.10.2024
WP 13734/2024	Dipak Rangnath Bhonde	04.01.2020	12.03.2020	11.10.2024
WP 13722/2024	Nilesh Sampatrao Kolase	08.07.2020	04.02.2021	26.07.2024
WP 13728/2024	Rajendra Harde	20.01.2023	13.10.2023	29.07.2024
WP 13729/2024	Namdev Sarjerao Jathar	04.01.2020	24.03.2021	29.07.2024
WP 13731/2024	Vasant Bhagwant More	19.10.2020	29.01.2021	29.07.2024
WP 13747/2024	Amir Dadabhai Imandar	01.02.2021	17.10.2023	29.07.2024
WP 13733/2024	Mahesh Namdev Harde	29.07.2020	04.02.2021	29.07.2024
WP 13725/2024	Kailas Bhausahab Tanpure	01.06.2019	19.07.2019	
WP 13698/2024	Rahul Vitthal Dive	19.10.2020	29.12.2020	11.10.2024

WP 13692/2024	Sachin Bapusaheb Shirsath	29.07.2020	30.12.2021	11.10.2024
WP 13727/2024	Shauqat Shabir Pathan	19.10.2020	08.04.2021	11.10.2024
WP 13723/2024	Indra Dyandev Ingale	16.08.2019	13.01.2020	11.10.2024
WP 13724/2024	Ajay Machindra Khose	19.10.2020	15.02.2021	11.10.2024
WP 13696/2024	Ramchandra Satubhau Shelke	03.01.2020	30.01.2020	11.10.2024
WP 13697/2024	Shukleshwar Kashinath Awari	30.07.2020	18.12.2020	11.10.2024
WP 13726/2024	Bharat Bapurao More	03.02.2021	30.09.2021	11.10.2024
WP 13691/2024	Goraksha Surybhan Ghanwat	04.06.2019	20.07.2019	11.10.2024

Though the learned Government Pleader strenuously makes the submissions in tune with the submissions advanced before the co-ordinate division bench in the matter of Nashik Merchant (supra), in our considered view since the respondent/State has already suffered the order in the matter of the petitioners only as also in so many earlier matters, decided on 10.04.2024, the learned Government Pleader is not even entitle to repeat the submissions and take the same stand.

9. In the light of the above, there is no escape from following the same course. The writ petitions are allowed. The Respondent / District Magistrate shall decide the petitioner's application u/s 14 of the SARFAESI Act within the statutory time.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)