

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3132 OF 2024

Cholamandalam Investment & Finance
Company Limited

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Charles D'souza a/w Alok Mishra, Advocates for the
Petitioner.

Mr.Nilesh Gala, Advocate for Purchaser.

Ms.D.M.Kapadia, AGP for State/Respondent.

**Mr.Aadil Parsurampuriah a/w Heramb Kadam i/b Nilesh
Mandavkar**, Advocates for Respondent No.4.

Mr.Prashant Shinde, Respondent No.4 is present in Court.

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : MARCH 13, 2024

P. C.

1. The above Writ Petition has been filed inter alia seeking a
order that Respondent Nos.1 to 3 be directed to take back physical
possession of Shop No.11, Ground Floor, Lakshmi Chayya CHSL, on the
land bearing Survey No.231, CTS No.263, 263/1, situated at Lokmanya

Tilak Road, Eskar Road, Babhai Naka, Borivali (W), Mumbai-400 092
(for short "**the secured asset**").

2. The grievance in the Petition is that though physical possession of the secured asset was handed over voluntarily to the Petitioner by Respondent Nos.4 to 6, they have trespassed into the secured asset by breaking open the locks put on the secured asset by the Petitioner-NBFC. An FIR to that effect is also lodged *inter-alia* against Respondent Nos.4 to 6.

3. The learned counsel appearing on behalf of Respondent No.4 did not dispute the aforesaid factual position, and fairly did not try to justify the actions of his client. He, however, submitted that there is some inventory lying in the secured asset. He stated and undertook to the Court that under any circumstances Respondent No.4 [who is in possession of the secured asset] shall handover physical possession of the said secured asset to the Authorized Officer of the Petitioner-NBFC on or before 20th March, 2024.

4. Considering the said statement made by Respondent No.4, and which we accept as an undertaking given to the Court, we dispose of

the above Writ Petition by directing that physical possession of the secured asset shall be handed over by Respondent No.4 (who is currently in possession) to the Authorized Officer of the Petitioner-NBFC on 20th March, 2024 at 11.00 a.m. The Authorized Officer of the Petitioner-NBFC is also directed to remain present at site on 20th March, 2024 to ensure that physical possession is handed over to him.

5. We make it clear that once possession is handed over to the Petitioner-NBFC, Respondent Nos.4 to 6 are free to approach the DRT and file whatever Interim Applications they desire, [in the pending S.A.] seeking appropriate interim reliefs in accordance with law including restoration of possession and/or challenging the sale.

6. We make it clear to Respondent No.4, who is present in Court, that if the directions given by us today are not complied with, we would not hesitate to initiate contempt proceedings to send him jail.

7. We have not opined on the merits of the matter one way or the other, which shall be decided by the DRT in the pending Securitization Application.

8. Though we have disposed of the above Writ Petition we place it on board for 'reporting compliance' on 21st March, 2024.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]