



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8384 OF 2025

MANDAKINI DEELIP KUMAR GAIKWAD AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Pawan A. Salve and
Ms. Pratibha R. Jamdhade

AGP for Respondent No.1 : Mr. S.P. Sonpawale

Advocate for respondents Nos.2 and 3 : Mr. S.W. Munde

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**CORAM : MANISH PITALE &
Y. G. KHOBRAGADE, JJ.**

DATE : 15.07.2025

PER COURT:

1. Heard the learned counsel for the Petitioners. The learned AGP appears for respondent No.1 and learned counsel Mr. Munde appears for Respondents Nos.2 and 3 on instructions. The petition was taken up for consideration on the production board as grave urgency was projected on behalf of the petitioners.

2. The urgency in the matter is that the respondents Nos.2 and 3 are likely to take possession of the property of the Petitioners in the context of nonpayment of loan advanced to the husband of Petitioner No.1.

3. Along with the petition is filed copy of an order dated 16.10.2024 passed by the 5th Additional Chief Judicial Magistrate, Aurangabad under Section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as the Securitization Act).

4. It is submitted on behalf of the petitioners that since the respondents Nos.2 and 3 are likely to take possession of the property, this Court may consider granting interim protection particularly in the light of an insurance policy issued by respondent No.4 in the context of the aforementioned loan advanced to the husband of petitioner No.1. It is submitted that the husband of petitioner No.1 died and therefore the amount in terms of the insurance policy ought to have been made available so that the outstanding amount could be paid. It was submitted that the Respondent No.4 – Insurance Company is not honouring its commitment in terms of the insurance policy.

5. In the first place, we find that the present writ petition has been filed against purely private entities like respondent Nos.2 to 4 and the grievance of the petitioners could have been ventilated in appropriate proceedings in accordance with law before different competent fora.

6. But, the most disturbing part is that the petitioners have suppressed vital information from this Court. The learned Counsel appearing for respondent Nos.2 and 3 has tendered copy of order dated

11.02.2025 passed by the Debts Recovery Tribunal, Aurangabad (DRT) in SA No.82/2025 filed by the Petitioner No.1 herself. By the said appeal filed under Section 17 of the Securitization Act, the aforesaid order dated 16.10.2024 of the 5th Additional Chief Judicial Magistrate, Aurangabad, passed under Section 14 of the Securitization Act, has been challenged.

7. By the said order, the DRT granted stay of taking possession of this very property, subject to the Petitioner No.1 depositing Rs.50,000/- on 11.02.2025 before 2.00 pm. and Rs.4,50,000/- up to 31.03.2025. The order specified that in case of default the bank would be entitled to take possession of the property. The said appeal is still pending before the DRT and it is an admitted position that the petitioners have not satisfied the two conditions imposed in the aforesaid order by the DRT.

8. Despite the fact that the Petitioner No.1 herself initiated the said proceeding, the aforesaid order and the fact about filing of the said appeal has been suppressed in the present writ petition. This is nothing but a ploy on the part of the petitioners to mislead this Court and to garner sympathy, only on the ground that the husband of petitioner No.1 expired after which the respondents Nos.2 and 3 are pursuing the matter against the petitioners for recovery of the amount due.

9. We are of the opinion that in the light of the aforementioned suppression of facts by the petitioners, no indulgence can be shown in the present petition and it deserves to be dismissed.

10. Accordingly, the writ petition is dismissed. Copy of the order dated 11.02.2025 passed by the DRT tendered by the learned counsel appearing for respondents Nos.2 and 3 is taken on record and marked 'X'.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)

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