



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO.12489 OF 2025

MOTILAL OSWAL HOME FINANCE LIMITED

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. B.S. Choure, Advocate for petitioner

Mr. S.D. Ghayal, AGP for respondent Nos.1 to 3

...

AND

922 WRIT PETITION NO.12505 OF 2025

MOTILAL OSWAL HOME FINANCE LIMITED

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. B.S. Choure, Advocate for petitioner

Mr. S.D. Ghayal, AGP for respondent Nos.1 to 3

...

CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 10th OCTOBER, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Both petitions have been filed by same Finance Company for

issuance of writ of Mandamus for directing respondent No.1 – State through Tahsildar to take possession and hand over the possession of immovable property and hand it over to the petitioner and to declare that respondent No.1 has violated the mandate of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter for the sake of brevity referred to as “**the SARFAESI Act**”).

2 The petitioner has contended that it is a non banking financial institution engaged into the business of providing Home Loans, Agriculture Loans and other facilities to various borrowers. Writ Petition No.12489 of 2025 is arising out the order passed by District Magistrate, Nanded on 21.10.2020 under Section 14 of the SARFAESI Act. The Tahsildar – respondent No.1 was directed to take possession of the property which was mortgaged. In Writ Petition No.12505 of 2025 similar type of order was passed in respect of other borrowers by District Magistrate, Jalna on 08.09.2022. The petitioner contends that the said borrowers in the respective matters had taken the credit facilities and mortgaged their property, however, they had failed to pay the loan amount and their account became non performing (NPA). After following the procedure the said order came to be passed, however, respondent No.1 – Tahsildar is showing inability. The petitioner had made application dated 09.06.2025 in the first matter to

the Tahsildar for completion of the procedure of taking possession of the said property, but there is no response. Similar application has been made to the same Tahsildar in another matter also on 26.08.2025.

3 Learned Advocate appearing for petitioner has therefore prayed for issuance of notice and giving directions to respondent No.1.

4 Here, in this case, the first and the foremost fact to be noted is that when already the order is passed by District Magistrate, it is the responsibility of Tahsildar to obey the order passed by District Magistrate. In the first matter though the order was passed on 21.10.2020, the application appears to have been given by present petitioner on 09.06.2025 and in the second matter though the order by the District Magistrate was passed on 08.09.2022, the application has been given on 26.08.2025. There is no explanation in the petition as to why the petitioner had not approached the District Magistrate against respondent – Tahsildar or had not asked the District Magistrate to pass further order pursuant to his own order or for execution of his own order. The petitioner cannot directly approach this Court under its writ jurisdiction. Therefore, both the petitions stand dismissed at the threshold.

(HITEN S. VENEGAVKAR, J.)

agd

(SMT. VIBHA KANKANWADI, J.)