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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5069 OF 2024**

Sharmila Rawat

...Petitioner

V/s

L and T Finance Ltd (Amalgamated entity of L
& T Housing Finance Limited)

...Respondent.

**WITH
WRIT PETITION NO.10408 OF 2024**

L & T. Finance Limited

... Petitioner

V/s

The State of Maharashtra and Others

...Respondents.

Mr. Shashank Fadia a/w Ms. Priyanka for the Respondent in Writ Petition No.5069 of 2024 and for the Petitioner in Writ Petition No.10408 of 2024.

Ms. Sakshi Randive a/w Mr. Azizkamal Shukla, Advocates for the Petitioner in Writ Petition No.5069 of 2024 and for Respondent No.2 in Writ Petition No.10408 of 2024.

Mr. S.P. Kamble, Assistant Government Pleader for Respondent No.1 in Writ Petition No.10408 of 2024.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATE : 17th APRIL, 2025

P.C. :

1] Writ Petition No.10408 of 2024 is not on board. Same is taken on board.

2] In Writ Petition No.5069 of 2024, the order dated 20/01/2023 passed by the learned Metropolitan Magistrate under Section 14 of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('the said Act' for short) is under challenge. During pendency of the said writ petition the possession of the subject property was stated to be taken by the creditor and Sale Certificate dated 26/04/2024 was executed in favour of one Ms. Swati Kudale. It transpires from the record that the creditor issued e-mails dated 27/04/2024 and 09/05/2024 stating therein that the loan account had been successfully closed. On that basis, the original title documents came to be returned to the Petitioner.

3] It is the case of the creditor that subsequently the borrowers trespassed into the subject property as a result of which the creditor approached the concerned Magistrate under Section 14 of the said Act by filing an application seeking re-possession which came to be allowed on 30/09/2024. It is pursuant to this order that the Court Commissioner issued notice to the borrowers on 01/04/2025 stating therein that possession would be taken on 18/04/2025.

4] The creditor has filed Writ Petition No.10408 of 2024 against the borrower with a prayer that the Petitioner in W .P. No. 5069 of 2024 be directed to return the title documents to the creditor, as the same were returned to the borrower inadvertently. We note that this is a prayer against a private party sought in writ jurisdiction.

5] In our view, various disputed questions would require adjudication. The remedy for both the parties is available with the Debts Recovery Tribunal. We are therefore inclined to relegate the parties to the Debts Recovery Tribunal to seek redressal of their grievances. However, since the notice for taking possession has been

issued and possession of the subject property is to be taken tomorrow which is 18/04/2025, the following directions would serve the ends of justice :-

(i) The steps for taking possession by the creditor shall stand deferred for a period of fifteen days which would be till 05/05/2025.

(ii) It is clarified that the creditor would not be required to issue any fresh notice to the borrowers and the notice issued earlier seeking to take possession can be relied upon in that regard. The date "18/04/2025" mentioned in the notice of the Court Commissioner dated 01/04/2025 for taking possession shall be replaced by the date "05/05/2025".

(iii) It would be open for both the parties to approach the Debts Recovery Tribunal and seek redressal of their grievances. It is open for the parties to make a request for expeditious consideration of the proceedings.

(iv) Keeping rival contentions of all the parties on merits open, the writ petition is disposed of.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J.)