

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17831 OF 2024

Bank of Baroda

...Petitioner

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Sanjiv Punalekar a/w Mr. Sachin Kanse i/b PRS Legal for the
Petitioner.

Mrs. Tanaya Goswami, AGP, for the Respondent/State.

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA
NITIN CHAVAN
Date: 2025.01.07
11:19:52 +0530

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

DATE : 6th JANUARY 2025

P.C. :

1. Heard learned Counsel for the parties.
2. This petition is filed by the Petitioner/ Bank seeking directions to Respondent No.2 (District Magistrate and District Collector, Thane) to restore the possession of secured asset.
3. Learned Counsel for the Petitioner submitted that in the proceedings adopted under provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short 'the said Act'), a notice was issued under Section 13(2) of the said Act, calling upon the borrowers/mortgagors to make payment of outstanding dues. On 14.10.2020, Respondent No.2/ District Magistrate passed an order directing Additional Tahsildar, Mira Bhayander to take possession of the secured asset. On 25.05.2023, the

Tahsildar, Mira Bhayander through the concerned Talathi complied with the said order and handed over the possession of the secured asset to the Authorised Officer of the Petitioner/Bank by drawing panchnama. It is submitted that thereafter, on 01.09.2023, the borrowers/mortgagors trespassed into the secured asset by taking law in their hands and are now refusing to vacate.

4. Learned Counsel for the Petitioner has drawn our attention to FIR dated 01.09.2023 filed by the Petitioner Bank against the Borrowers/Mortgagors under Section 447, 448, 504 and 506 read with Section 34 of the Indian Penal Code. Our attention is also drawn to a communication dated 06.09.2024 made by the Petitioner Bank to the District Magistrate, Thane requesting to take possession of secured asset again.

5. The Petitioner Bank has relied upon the order passed by the Co-ordinate Bench of this Court dated 11.07.2023 in Writ Petition No. 8005 of 2023 as well as an order dated 12.08.2024 passed in Writ Petition No. 1080 of 2024, to which one of us (A.S. Chandurkar, J) was party.

6. The situation in this petition is squarely covered by the decision of Co-ordinate Bench of this Court in the case of **Nashik Merchant Co-operative Bank v/s. The District Collector, Jalna and Ors** (Writ Petition No. 10069 of 2022 decided on 28.02.2023) and in the case of **Kotak Mahindra Bank Limited and Anr. v/s. State of Maharashtra and Ors.** (Writ Petition No. 6805 of 2023 decided on 30.06.2023). In the said judgments, directions have been issued to redeliver the possession of secured asset and it has been made clear that

it would not be necessary for the secured creditor to initiate fresh proceedings under Section 14 of the said Act, and it is not open for a party to disregard the action taken under Section 14 of the said Act and re-enter into possession. The facts of the present case is squarely covered by the aforesaid judgments.

7. In view of the aforesaid, we are satisfied that the Petitioner Bank is entitled to similar relief. Accordingly, Writ Petition is allowed in terms of prayer clause (a), which reads thus.

“a) This Hon’ble Court be pleased to writ of mandamus or any other appropriate writ to issue order and directions to Respondent No.2 to restore the possession of secured assets vis. Flat No. 202-C, 2nd floor, Punam Srishti CHS Ltd., Latif Park, Mira Road (E)-401107, District-Thane with Authorised Officer of Petitioner Bank, as expeditiously as possible.”

8. All concerned to act on duly authenticated or digitally signed copy of this order

(M.M. SATHAYE, J.)

(A.S.CHANDURKAR, J.)