IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18692 OF 2024

State Bank of India … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

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Mr. Sanjay Anabhawane, for the Petitioner.
Mr. Aditya Shankar Navpute a/w Mr. Aman Surendrasingh, for the Respondent No.9.
Mr. V.G. Badgujar, AGP for Respondent-State.

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CORAM : M.S.KARNIK AND N.R.BORKAR, JJ.

DATE : 08th AUGUST 2025

P.C. :

1. Heard learned counsel for the petitioner. The secured asset of which the possession is taken on 19/12/2023 was trespassed by the borrower. In the light of the law laid down in **Kotak Mahindra Bank Ltd. & anr. Vs. State of Maharashtra and anr.**[1], the petitioner-Bank is entitled to seek repossession of the secured asset. Accordingly, respondents no. 3 and 4 are directed to seek the repossession of the property within a period of 4 weeks from today.

1 Writ Petition No. 6805 of 2023 decided on 30/06/2023

2. It must be mentioned that learned counsel for the borrower appeared and opposed the petition. He submits to be a victim of fraud played by his relatives. It is submitted that the borrower is 73 years of age residing along with his wife in the secured asset and if the property is repossessed, it will be very difficult for him to find shelter for him and his wife at such an advanced stage of his life. It is submitted that in fact, FIR has been filed against his relatives who cheated on him. Learned counsel was at pains to point out that interim application has been filed under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (" SARFAESI Act", for short).

3. We do have sympathy with the borrower but it is not possible for us to overlook the fact that secured asset of which the possession has been taken was trespassed by the borrower. The necessary effect to the provisions of the SARFAESI Act has to be given. We make it clear that it is open for the borrower to pursue the application which he has filed under Section 17 of the SARFAESI Act before DRT and if any orders are passed by DRT in favour of the borrower, the said legal impediment can always be

brought to the notice of respondents no. 3 & 4 in the event borrower succeeds in getting some interim protection by then.

4. Keeping all contentions of the borrower and Bank open in the application which has been filed under Section 17 of the SARFAESI Act, the petition is disposed of by directing respondents no.3 and 4 to take possession of the secured asset within 16 weeks from today.

5. In-charge of the concerned police station to render all possible co-operation. The petitioner is willing to pay necessary police protection charges.

6. The petition is disposed of.

7. Liberty to apply in case this order is not complied with.

(N.R.BORKAR, J.) **(M.S.KARNIK, J.)**