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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5125 OF 2025**

Mr. Ali Asgar Yusuf Khokhar,
(Legal heir of deceased Smt. Mehfooza ...Petitioner
Adamali Khokhar)
V/s
State of Maharashtra and Others ...Respondents.

Mr. Mandar Soman a/w Mr. Prafull Chipte a/w Ms. Tejaswi Nanche i/b
Trupti Nandoskar, Advocates for the Petitioner.

Mr. Sumeet Palsuledesai i/b M.V. Kini & Co., Advocates for Respondent
Nos. 2 and 3.

Mr. Y.D. Patil, Assistant Government Pleader for Respondent No.1.

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

DATE : 17th APRIL, 2025

P.C. :

1] The challenge raised in this writ petition is to the action intended to be taken by the creditor pursuant to the order dated 14/09/2023 passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('the said Act' for short). It is the grievance of the Petitioner that he is a legal heir of the guarantor/non-applicant no.4 in the said proceedings. The said guarantor has expired on 12/01/2022 which was after issuance of the notice dated 09/08/2021 under Section 13(2) of the Act of 2002, but before the proceedings under Section 14 could be decided. Various contentions are sought to be raised by the learned counsel for the Petitioner, including the contention that the order dated 14/09/2023 is passed against a dead person.

2] The learned counsel for the Respondent No.2 on instructions submits that remedy of approaching the Debts Recovery Tribunal is available to the Petitioner and hence, it is open for the Petitioner to exhaust that remedy. On instructions, he further submits that steps for taking possession would be deferred for a period of fifteen days, without prejudice to the rights of the Bank.

3] In the light of the aforesaid, the Petitioner is at liberty to approach the Debts Recovery Tribunal under Section 17 of the said Act. The date for taking possession as indicated in the notice issued by the Court Commissioner on 19/03/2025 shall stand deferred till 02/05/2025. It is made clear that no fresh notice would be required to be issued to the Petitioner and the earlier notice dated 19/03/2025 with the revised date can be executed.

4] Keeping all contentions on merits open, the writ petition is disposed of.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J.)