

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6873 OF 2025

Motilal Oswal Home Finance Ltd ...Petitioner

VERSUS

The State Of Maharashtra Through
G.p. And Ors. ...Respondents

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Adv. Mahesh Swami a/w Adv. Shreyas Deshpande i/by Mr. Navin Arora, Advocate for the Petitioner.

Ms. Ashwini A. Puray, AGP for the Respondent – State.

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**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 04th JULY, 2025

P.C.:

1. The reliefs prayed in this petition are for directions to respondent No.1 - The State of Maharashtra/District Magistrate, Palghar to restore the possession of Secured Assets, i.e., Flat No.404, 4th Floor, Maa Shakti Apartment, Bolinj, Virar (W), Taluka Vasai, District palghar, Maharashtra with the help of respondent No.2 – Police Inspector, Police Station, Bolinj, Virar (W) in the presence of the authorised officer of the petitioner bank.

2. Learned AGP submitted that as the possession was handed over and as there is no provision under the Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (“SARFAESI Act” for short) for restoration of possession of the property if the same is dispossessed, the concerned authorities are unable to take any action.

3. The issue raised by learned AGP is no longer *res integra* in view of the decision of this Court in ***Kotak Mahindra Bank Ltd. & Anr. vs. State of Maharashtra & Anr.***¹. This Court has clearly held that there is no prohibition for the District Magistrate or his delegate to re-exercise the powers to execute the order passed under Section 14 of the SARFAESI Act. In this view of the matter, the petition is allowed in terms of prayer clause “b”.

4. If police protection is necessary, the same be provided on petitioner-bank paying the necessary charges, which the petitioner-bank is ready and willing. The steps to repossess the property and restore the possession to the petitioner be taken within a period of 10 weeks from today.

5. The petition is disposed of in aforesaid terms.

6. List the matter for compliance on 10th October 2025.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)

¹ Writ Petition No. 6805 of 2023 decided on 30.06.2023