

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9517 OF 2025

Iqbal Hussain Shaikh & Anr.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

*Ms. Anita Castelena i/b. Ms. Deepa Kamath, Advocates for the
Petitioners.*

*Mr. Mandar Soman a/w Tejaswi Nanche i/b. Medha Rane, Advocates
for the Respondent No.4/Kotak Bank.*

*Ms. S. D. Vyas, Addl. GP a/w Ms. V. R. Raje, AGP, for the
State/Respondents.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: NOVEMBER 14, 2025

P. C.

1. The above Writ Petition has been filed seeking to challenge the order dated 3rd March 2010 passed by the District Collector (Respondent No. 3) under Section 14 of SARFAESI ACT, 2002. Correspondingly, the Notices dated 15th April 2025 and 13th May 2025 seeking to take physical possession of Flat No. 203, A-Wing, Madhuvan Complex, A-Wing, Co-Operative Housing Society Limited, Mira Road (East), Thane, Maharashtra-401107 (For short the “**said flat**”) are also challenged.

2. It is not in dispute before us that physical possession of the said Flat is already taken by the 4th Respondent-Bank on 13th May 2025. It is also not in dispute before us that the Petitioner has also approached the Debts Recovery Tribunals (For short the “**DRT**”) under Section 17 of the SARFAESI Act, 2002, by filing Securitization Application No. 283 of 2025. In the said Securitization Application, the taking over of possession of the said flat, as well as order dated 3rd March 2010, and the Notices issued for taking possession are all challenged.

3. The Petitioner had moved this matter urgently yesterday because a grievance was made that the DRT adjourned their Securitization Application to 8th December 2025, and in the meanwhile, the auction of the said flat was to be conducted by the 4th Respondent-Bank today.

4. Today when the matter is called out, we are informed that in fact the 4th Respondent Bank has received no offer for sale of the said flat. The consequence of this is that the 4th Respondent-Bank will now have to once again advertise the sale of the said flat. This fresh auction, under the rules, cannot take place before a period of 15 days as more particularly set out in Rule 9 of the SARFAESI Rules.

5. Once this is the factual scenario before us, we do not find any reason to entertain the above Writ Petition. We accordingly dispose of this Writ Petition by directing the Petitioners to prosecute their grievances in the Securitization Application already filed by them, and which is pending before the DRT.

6. If for any reason the Bank once again advertises the sale of the said flat, the Petitioner is free to approach before DRT for interim/ad-interim reliefs. If the DRT is so moved, it shall give a hearing to the Petitioner and thereafter pass an appropriate order thereon before the date of the fresh auction.

7. We may hasten to record that we have not entered upon merits of the matter and the same shall be decided by the DRT on its own merits and in accordance with law.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]