

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10014 OF 2025

Gita Vishal Kakade

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Rajesh Ranglani i/by Mr. Dipak K. Shinde, Advocate for Petitioner
- Ms. P.J. Gavhane, AGP for Respondent Nos. 1 & 3

.....

CORAM : MILIND N. JADHAV, J.

DATE : JULY 22, 2025

P.C.:

1. Heard Mr. Ranglani, learned Advocate for Petitioner and Ms. Gavhane, learned AGP for Respondent Nos. 1 and 3.

2. Present Petition is filed in grave urgency on 14.07.2025. It was lodged in the department on 17.07.2025. It was mentioned before me on 17.07.2025 with a request to list the matter on or before 23.07.2025 in view of Tahsildar attempting to take forcible possession of the subject property pursuant to Possession Notice dated 19.06.2025.

3. Grievance of the Petitioner is that after issuance of the Possession Notice on 27.08.2024, Petitioner had approached this Court by filing Writ Petition No. 12100/2024 which was withdrawn on 30.06.2025. However in view of the notice received from Tahsildar for

taking possession subsequently, present Writ Petition is filed to consider the fact that the initial order dated 01.02.2024 passed by Tahsildar was an exparte order without hearing the Petitioner. Facts of the case are that Petitioner had taken a loan from Respondent No. 2 - Bank and thereafter defaulted in payment of the same leading to recovery proceedings. Petitioner has failed to pay the same and therefore the impugned action is pressed by Tahsildar for taking over possession of the Petitioner's mortgaged home - immovable property situated at Gat No. 44/2BB N.A. Plot No. 14 R.C.C. which was in fact mortgaged to the Bank. That apart he would inform the Court that Petitioner has till date paid an amount of Rs. One Lakh to Respondent No. 2 Bank after passing of the order dated 01.02.2024.

4. Considering the aforesaid submissions which are borne out from the record and the request made by the learned Advocate for Petitioner in the praecipe dated 17.07.2025, I am inclined to protect the Petitioner for the present to enable the learned AGP to take appropriate instructions from the Tahsildar and accordingly apprise the Court on the next adjourned date.

5. The impugned action of taking possession on 23.07.2025 i.e. tomorrow stands stayed by the Court. Tahsildar is directed by Court not to take possession of the immovable property which is the subject

matter of the present Petition as proposed by him until the present Petition is heard and decided finally by this Court.

6. In view of the above, issue notice to the Respondents made returnable on 05.08.2025. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

7. Learned AGP waives service on behalf of Respondent Nos. 1 and 3.

8. After service of notice, Respondent No. 2 - Bank is directed by the Court to place on record the precise outstanding amounts to be recovered from Petitioner to enable the Court to determine the present Petition in accordance with law. Affidavit shall be filed within a period of one week from the date of service. Needless to state that Bank will be heard by this Court and only thereafter further order shall be passed in the present Petition.

9. stand over to **5th August, 2025**. To be placed "**First on Board**".

[MILIND N. JADHAV, J.]