

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 13121 OF 2025**

Gurpreet Singh Alagh

..Petitioner

**Versus**

Housing Development Finance Corporation Bank  
Ltd (HDFC Bank Ltd) & Ors

...Respondents

**WITH**  
**INTERIM APPLICATION NO. 7112 OF 2025**  
**IN**  
**WRIT PETITION NO. 13121 OF 2025**

Adv Aishwarya Venkitarama, i/b Sonam Chandwani, for the  
Petitioner.  
Mr. Vishal Tambat, for the Respondents.

**CORAM: N. J. JAMADAR, J.**  
**DATE : 2<sup>nd</sup> DECEMBER 2025**

**P.C.:**

- 1.** Heard the learned Counsel for the parties.
- 2.** The Petitioner seeks the following reliefs:

“a. Issue a writ, order or direction declaring Civil Suit No. 2579/2012 as non-maintainable ab initio under Section 34 of the SARFAESI Act.

b. Hold that the prolonged pendency of the said suit and the misuse of status quo order caused grave

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prejudice and amounted to abuse of the judicial process;

c. Direct Respondent to pay exemplary costs of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) to the Petitioner as punitive damages for misuse of process and to prevent recurrence.”

**3.** The Respondent had instituted a Suit being SU No. 2579 of 2012 against the Petitioner before the City Civil Court. The Respondents filed an Application for withdrawal of the said Suit with liberty to institute a fresh proceeding before an appropriate forum. By an order dated 6<sup>th</sup> January 2025. the learned Judge, City Civil Court allowed the said Application by imposing costs of Rs.25,000/-, which was ordered to be paid to the Defendant No.1-Petitioner herein.

**4.** The learned Counsel for the Petitioner submitted that the institution of the said Suit was an abuse of process of law. In the said Suit, the Respondent-Plaintiff had obtained an order of status-quo, which caused grave prejudice to the Petitioner. Therefore, the Petitioner has instituted this Petition seeking the afore-extracted reliefs. It was further submitted that the Respondent was let off by imposing a meager costs of Rs.25,000/- though the Suit remained on the file of the Court for more than 13 years.

**5.** The learned Counsel for the Respondent submitted that, the Suit in respect of which declaration is sought, as not maintainable, has

already been withdrawn by the Respondent. The latter is in the process of filing an appropriate proceeding before the Debts Recovery Tribunal.

6. The Petitioners asserts an order of withdrawal of the suit with costs of Rs.25,000/- only was unjust given the conduct of the Respondent-Plaintiff. Essentially, the Petitioner is aggrieved by the institution and pendency of the said Suit before the City Civil Court for over 13 years before it came to be withdrawn by the Respondent. The proper remedy for the Petitioner is to institute a substantive Suit for damages. In exercise of the extraordinary writ jurisdiction, this Court cannot delve into the thickets of facts and the aforesaid prayers cannot be thus legitimately entertained.

7. Keeping open the liberty to file a substantive suit for damages on account of the institution and pendency of the Suit and the status-quo order which was allegedly unjustifiably obtained therein, the Petition stands disposed.

8. In view of the disposal of the Writ Petition No. 13121 of 2025, Interim Application No. 7112 of 2025 does not survive and stands disposed of.

**[N. J. JAMADAR, J.]**