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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.33527 OF 2025

JITENDRA
SHANKAR
NIJASURE

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JITENDRA SHANKAR
NIJASURE
Date: 2025.10.16
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M/s. Enkay Ayurvedik Village Pvt. Ltd. & Anr. ...Petitioners

Versus

Bank of Maharashtra & Ors. ...Respondents

Mr. Manoj Harit with Niket Harit i/b. Manoj Harit and Co. for the
Petitioners.

Mr. Abhishek Samant with Pranali Rawool for Respondent Nos.1 and
2.

Mr. A.A. Alaspurkar, AGP for Respondent No.3 – State.

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 14TH OCTOBER, 2025.

ORDER :

1. By this Writ Petition, the Petitioners are seeking quashing
and setting aside of the impugned possession notice dated 30th
September, 2025 issued by the learned Court Commissioner thereby
scheduling the physical possession of the sole residential premises of
the Petitioner No.2 and his family on 15th October, 2025.

2. The Petitioners have referred to the prior Orders passed by the DRT-III. By last order dated 3rd April, 2025, the DRT-III had considered the Petitioners' request to defer the possession on deposit of a reasonable amount. The possession intended on 4th April, 2025 was deferred on the applicant depositing Rs.12 lakh with the Respondent / Bank at or before 11.00 a.m. on 4th April, 2025 failing which the Respondent – Bank would be at liberty to take further steps as per SARFAESI Act. The Interim Application No.1078 of 2025 had been accordingly disposed of.

3. Thereafter, the Applicant has deposited the said amount of Rs.12,00,000/- on or before 11.00 a.m. on 4th April, 2025. However, it is surprising to note that DRT-III has recorded that possession intended on 4th April, 2025 is deferred without giving the date till which the possession has been deferred. There is only a reference made to the matter being listed on 27th June, 2025 for filing reply to the Securitization Application.

4. The Respondent – Bank has till date not filed Reply to the Securitization Application. In spite of which the impugned possession notice has been now issued on 30th September, 2025 by

the Court Commissioner and physical possession of the sole residential premises of the Petitioner No.2 and his family has been scheduled on 15th October, 2025.

5. We considered it appropriate that the DRT-III dispose of the Securitization Application within the stipulated time under Section 17(5) of the SARFAESI Act, 2002. The Supreme Court Order in *Indian Overseas Bank Vs. M/s. Radhey Infra Solutions Pvt. Ltd. & Ors.*¹ has taken note of Section 17 (5) of the SARFAESI Act, 2002 and the stipulated time mentioned therein which is 60 days for disposal of the Securitization Application. The Supreme Court has held that as per the statutory mandate the DRT shall dispose of Securitization Applications within the stipulated time.

6. We set aside the impugned possession notice dated 30th September, 2025 issued by the Court Commissioner scheduling physical possession of the sole residential premises of the Petitioner No.2 and his family on 15th October, 2025 by directing the DRT to dispose of the Securitization Application No.225 of 2024 within the stipulated period of 60 days as per statutory mandate and as per the

¹ Special Civil Appeal (C) No.21255 of 2025 dated 7th October, 2025.

aforementioned decision of the Supreme Court.

7. The Respondent – Bank shall file their Reply to the Securitization Application on or before 17th October, 2025.

8. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

[FARHAN P. DUBASH, J.]

[R.I. CHAGLA J.]