IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13573 OF 2025

Venkateshwar Narayan Vemula and Anr. … Petitioners

V/s.

State of Maharashtra and Ors. … Respondents

Ms. Dimple Tejani for the Petitioners
Ms. V.R. Raje, AGP for Respondent Nos. 1 to 3 – State
Mr. Navin Arora (through V.C.) for Respondent No.4

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

DATE : 11TH NOVEMBER 2025

P.C. :

1. By this Writ Petition, the Petitioners are seeking a writ prohibiting Respondent Nos. 2 and 3 from executing and giving effect to order dated 28th April 2023 passed in Case No. 1042 of 2021 and from enforcing the Notice dated 10th August 2023 (pasted on 28th April 2025) and further from taking possession of the premises viz. Flat No.407, 4th Floor, S No. 48, H No. 41 p, Municipal House No. 1616, New Kaneri, Kamatghar, Bhiwandi, Thane on the basis of the said order dated 28th April 2023 and Notice dated 10th August 2023.

2. The Petitioners had availed of a loan from the Respondent – Bank under which amounts were due as and by way of EMI. In view of default in making payment of the EMIs to the Respondent – Bank, a Notice was issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 by the Respondent – Bank to the Petitioner.

3. Thereafter, an order came to be passed by the District Magistrate, Thane under Section 14 of the SARFAESI Act on 28th April 2023. The order was impugned in Securitization Application No. 108 of 2024.

4. By an order dated 12th March 2024, the Presiding Officer of DRT-III recorded the submission of the learned Counsel for the Applicant that the Applicant wishes to regularize the loan account. It was further recorded that the amount for regularization is around Rs.5.88 lakhs according to the learned Counsel for the Respondent – Bank, besides penalty and other charges. The Presiding Officer, DRT-III permitted the Applicant to regularize the account and granted liberty to the Applicant to deposit a sum of Rs.4 lakhs before possession of the secured asset was taken by 12 noon on next day and remaining overdue regularization i.e. Rs. 1.88 lakhs was to be paid within a period of one week from the date of the said order.

5. By a subsequent order dated 20th March 2024, the Presiding Officer, DRT-III recorded the submission of the Petitioners that the account had been regularized by making deposit/payment of the aforementioned amounts. The Securitization Application No. 108 of 2024 accordingly stood disposed of as infructuous.

6. The present Petition has been filed in view of the Respondent – Bank seeking to enforce Notice dated 10th August 2023 issued under Section 13(2) of the SARFAESI Act and execute the said order dated 28th April 2023, passed by the District Magistrate, Thane for possession of the secured asset.

7. The learned Counsel for the Petitioners has submitted that once the account has been regularized, the Respondent – Bank cannot enforce the prior Notice dated 10th August 2023 issued under Section 13(2) of the SARFAESI Act and/or execute the order dated 28th April 2023 passed by the District Magistrate under Section 14 of the SARFAESI Act.

8. The learned Counsel for the Respondent – Bank has tendered a statement of the outstanding loan account as on 10th November 2025 which shows the balance principle amount of Rs.15,14,924/- and overdue EMI instalments of Rs.3,97,561/- as well as the other charges/penalty.

9. We have considered the submissions. The regularization of the loan account of the Petitioners, as on March 2024 as recorded in the order

dated 20th March 2024, passed by the Presiding Officer, DRT-III, does not mean that there are no further payments due to the Respondent - Bank under the loan account.

10. The Petitioners in the event they are aggrieved by the action being taken by the Respondent – Bank in giving effect to the order dated 28th April 2023 passed by the District Magistrate under Section 14 of the SARFAESI Act, preceded by Notice dated 10th August 2023 issued under Section 13(2) of the SARFAESI Act, an alternate remedy is available to the Petitioners and the present Writ Petition cannot be entertained on this ground.

11. We accordingly dismiss the present Writ Petition. The Petitioners are at liberty to avail of their alternate remedy. All rights and contentions of the Petitioners are kept open. There shall be no order as to costs.

(FARHAN P. DUBASH, J.) **(R.I. CHAGLA J.)**