

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12323 OF 2024

Tata Capital Housing Finance Ltd Throu.
Its Legal Manager Sahadevan Sameesh ...Petitioner
VERSUS
The State of Maharashtra Throu. Govt
Pleader And Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 7917 OF 2025
IN
WRIT PETITION NO. 12323 OF 2024**

Manish Jagdish Tiwadi And Anr. ...Applicants/Intervenors

IN THE MATTER BETWEEN

Tata Capital Housing Finance Ltd Throu.
Its Legal Manager Sahadevan Sameesh ...Petitioner
VERSUS
The State of Maharashtra Throu. Govt
Pleader And Anr. ...Respondents

....

Mr. Nikhil Mehta, Advocate for the Petitioner.

Mr. Shivshankar D. Patil, Advocate for the Intervenors.

Mr. A. I. Patel Addl. G. P a/w Ms. A. A. Purav, AGP for the
Respondent – State.

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**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 27th JUNE 2025.

P.C.:

1. This Court had passed specific order for taking the

possession. Accordingly, the possession was taken by the Tehsildar, Haveli, Pune and the possession of the secured asset was handed over to the petitioner on 15th May 2025. However, it is now brought to our notice that the borrower has again entered the premises and trespassed the secured asset.

2. Learned counsel for the borrower submitted that the remedy for the petitioner now is to approach the DRT and seek appropriate reliefs as the reliefs prayed in the petition is worked out.

3. In our opinion, the action of the borrower is high handed. In this view of the matter, it can not be said that once the possession is handed over to the petitioner, the borrower can trespass into the property in the manner that is sought to be done.

4. In this view of the matter, we direct the Tehsildar, Haveli, Pune to ensure that the petitioner be put back in possession of the secured asset within the period of four weeks from today. The date for taking possession from the borrower, co-borrower or any person claiming under them be fixed.

5. If the police protection is necessary and the petitioner is willing to pay the necessary charges, police protection be provided by the concerned Police Station. The In-Charge of the concerned

Police Station to ensure that the police protection is provided to the petitioner.

6. It is made clear that after handing over the possession, the borrower again trespasses in the secured asset, this Court will be constrained to initiate the proceedings under the Contempt of Court's Act. After the possession is handed over, the borrower/co-borrower is restrained from entering into the premises or taking forcibly possession of the premises. It is, however, open for the borrowers and co-borrowers or any third party claiming to seek remedies for restoration of possession, in accordance with the provisions of Securitisation Act.

7. List on 30th July 2025 under the caption "for compliance".

8. The petition is disposed of in above term.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)