IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 10509 OF 2025
IN
WRIT PETITION NO. 4217 OF 2025

Ashay A. shah and anr. … Applicants
In the Matter between
Aditya Birla Housing Finance Ltd. ...Petitioner
V/s.
State of Maharashtra & Ors. … Respondents

DINESH SADANAND SHERLA
Digitally signed by DINESH SADANAND SHERLA
Date: 2025.08.05 19:52:22 +0530

Mr. Bhavesh Magam for the Applicants.
Ms Lavanita Chityala a/w. Ms Priyanka Dubey , Adv. Shreya Gupte i/b Hedgehog & Fox LLP for the Original Petitioner.
Smt. Ashwini A. Purav, AGP for Respondent/State.

CORAM : M.S. KARNIK &
N.R. BORKAR, J.J.
DATE : 5th AUGUST, 2025.

P.C.

1. By this application, the applicants/borrowers seek modification or setting aside the order dated 14th July 2025 passed by this Court in Writ Petition No. 4217 of 2025.

2. Heard learned counsel for the parties.

3. Learned counsel for the applicants/borrowers submits that the order dated 14th July 2025 in Writ Petition No. 4217 of 2025 was passed *ex parte*, without granting the applicants/borrowers an opportunity of being heard. It is submitted that the possession of the property in the first instance was forcibly taken contrary to the provisions of law. It

is submitted that the petitioner - financial institution has taken possession of the property, the description of which is different from the secured asset. In our opinion, these are the matters which have to be raised before the Debts Recovery Tribunal ("DRT" for short) in appropriate proceedings and liberty in that regard is kept open. It is open for the petitioner - financial institution to seek restoration of possession.

4. However, as possession had earlier been taken pursuant to the proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act" for short), which has since been allegedly trespassed, this Court had already directed the restoration of possession by order dated 14th July 2025.

5. Learned counsel for the applicants/borrowers, on instructions, submits that the borrowers are willing to hand over possession of the secured asset, in respect of which they have allegedly committed trespassed, to the petitioner – financial institution on or before 14th August 2025. The applicants/borrowers shall remove all the articles which are lying in the said premises by the next date and the vacant possession will be handed over.

6. In light of this statement, for a period of 8 weeks from today, no further action shall be taken by the petitioner – financial institution for disposing/auction/sale of the secured

asset of which the possession is being handed over.

7. The petitioner - financial institution shall provide all necessary demarcation plans and relevant documents which are in their possession pertaining to the secured asset. Learned counsel for the petitioner-financial institution submitted that all such documents which the borrowers want have already been annexed to the petition.

8. The statements made by the applicants/borrowers, on instructions, are accepted as an undertaking to this Court.

9. The borrowers are at liberty to approach the DRT for appropriate reliefs, including the borrowers' claim for restoration of the possession. It is made clear that we have not expressed any opinion on the merits of the matter.

10. In this view of the matter, as the borrowers are willing to hand over the possession of the secured asset voluntarily, the possession notice shall not to be acted upon. Liberty to apply in case of difficulty.

11. If the applicants/borrowers fail to hand over the possession, the concerned officer may proceed to take possession on or before 20th August 2025.

12. At this stage, learned counsel for the petitioner-financial institution has handed over a copy of demarcation plan to the counsel for the applicants/borrowers. Apart from copy of

demarcation plan and documents already annexed to the petition, learned counsel for the petitioner – financial institution submitted that there are no further documents relating to the secured asset are available with them.

13. The Application is disposed of.

14. The charges towards police protection shall be borne by the petitioner-financial institution.

(N.R. BORKAR, J.) **(M.S. KARNIK, J.)**