

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 Arvindbhai Shah & Anr. ...Applicants

IN THE MATTER BETWEEN

Aditya Birla Housing Finance Ltd. ...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

Mr. Bhavesh Magam, for the Applicants in IA/10509/2025 and for the Respondent Nos.3 and 4 in WP/4217/2025.

Ms. Megha Gupta a/w Adv. Lavanita Chityala & Adv. Shreya Gupte i/by Hedgehog and Fox LLP, for the Petitioner.

Smt. Ashwini A. Purav, AGP for the Respondent Nos.1, 2 & 6.

CORAM : SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.
DATED : 25th AUGUST, 2025

P.C. :-

1. Heard Ms.Gupta, learned Counsel for the Petitioner, Ms. Purav, learned AGP for the Respondent Nos.1, 2 & 6 and Mr. Magam, learned Counsel appearing for the Respondent Nos.3 & 4.

2. It is pointed out by the learned Counsel for the Writ Petitioner that despite the categorical undertaking given by the borrower i.e. the Respondent Nos.3 and 4 to voluntarily hand over the possession of the

property to the Writ Petitioner before 14th August 2025 and notwithstanding the direction contained in para 11 of the Order dated 5th August, 2025 passed by a Division Bench of this Court (Coram: M.S. Karnik & N. R. Borkar, J.J.), the Respondent Nos.3 & 4 has neither handed over the possession of the property nor has the Tahasildar taken any concrete steps for the handing over the property to the Petitioner. Under such circumstances, the Petitioner is seeking a direction from this Court.

3. Smt. Ashwini Purav, learned AGP submits that although, the Tahasildar had gone to the property to take over possession, yet, in view of the resistance offered by the Respondent Nos. 3 and 4, possession could not be taken over today.

4. Mr. Magam, learned Counsel for the Respondent Nos.3 and 4, has maintained that his clients are willing to voluntarily hand over possession of the property without, however, in any manner substantiating this plea.

5. Be that as it may, by the Order dated 5th August, 2025 this Court had issued a categorical direction in paragraph 11 requiring the concerned officer to proceed to take possession of the property on or before 20th August, 2025. Notwithstanding such specific direction, it appears that no concrete step has been taken by the jurisdictional Tahasildar to take over possession of the property. In such circumstances, we issue a further direction to the Tahasildar to take over possession of the property in

question and hand over the same to the Petitioner within seven days from today, in compliance of the Order of this Court dated 5th August, 2025. If necessary, police help be taken for the said purpose. We, also make it clear that, if the possession is not handed over to the Petitioner within seven days from today, the Tahasildar shall personally remain present before this Court on 24th September, 2025 to explain the sequence of events. The borrower i.e. Respondent Nos.3 and 4 to render necessary cooperation.

6. It is also made clear that, the Petitioner would bear the expenses of police help, if any, required in this case.

7. This Order be communicated to the concerned officer(s).

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)