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**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 and Anr. ... Applicants

IN THE MATTER BETWEEN

Aditya Birla Housing Finance Ltd. ... Petitioner

V/s.

State of Maharashtra and Ors. ... Respondents

Mr. Dhruva Gandhi with Lavanita Chityala and Shreya Gupta i/b. Hedgehog and Fox LLP for the Petitioner

Mr. Kunal Damle i/b. Bhavesh Magam for the Applicants in IA 10509/2025

Ms. Ashwini A. Purav, AGP for Respondent No.1,2 and 6 – State

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

DATE : 22ND SEPTEMBER 2025

P.C. :

1. The matter had been circulated at the instance of the Applicants/Borrowers. In the circulation praecipe it was mentioned that the Applicants pursuant to the order dated 25th August 2025 could not hand over possession to the Petitioner and the Tahsildar had now issued a notice dated 20th September 2025 that possession would be taken tomorrow that is on 23rd September 2025 at 9.00 a.m. It is further stated that as per the order dated 25th August 2025, the Tahsildar is directed by this Court to be

personally present before this Court on 24th September 2025 to explain the sequence of events.

2. The learned Counsel appearing for the Applicants has submitted that to the praecipe notice dated 17th September 2025, a panchnama dated 2nd September 2025 has been attached. He has submitted that as per the panchnama, the Tahsildar could not take possession on 2nd September 2025 due to non-identification of the subject property as per the survey map. He has submitted that the identification of the subject property requires to be made by the Tahsildar prior to taking over possession of the subject property.

3. The learned Counsel appearing for the Petitioner has referred to the prior orders passed by this Court including the order dated 20th August 2025, when the learned Counsel appearing for the Applicant had made a statement that the Applicant would have no objection in handing over possession of the property to the Petitioner. This was followed by the said order dated 25th August 2025 when it was observed that no concrete steps had been taken over by the Tahsildar to take over possession of the property in spite of the order dated 5th August 2025 wherein, categorical direction was given to the Tahsildar to proceed to take possession of the property on or before 20th August 2025. Further, direction had been issued by this Court by the said order directing the Tahsildar to take over possession of the said property and hand over the same within seven days from the date of the said

order in compliance with the prior order dated 5th August 2025. The Tahsildar was also provided with police assistance to take over possession. It is pertinent to note that in the said order, the learned Counsel appearing for Respondent Nos. 3 and 4 had mentioned that his clients were ready and willing to hand over the subject property.

4. The learned Counsel appearing for the Petitioner has submitted that inspite of the orders passed by this Court, the Tahsildar has till date not taken the possession of the subject property. He has submitted that, by the said order dated 25th August 2025, the Tahsildar was directed to be personally present before this Court on 24th September 2025 to explain the sequence of events. The Borrowers i.e. Respondent Nos. 3 and 4/Applicants were directed to render necessary co-operation.

5. Having considered the contents of the praecipe dated 20th September 2025 and the submissions of the learned Counsel for the Applicants, the request for stay of the possession being taken cannot be countenanced by this Court in view of the prior orders passed by this Court as well as the statements made by the learned Counsel for the Applicant/Respondent Nos. 3 and 4 that they will voluntarily hand over possession of the subject property. The Applicants are well aware of the subject property to be handed over and hence, the mere pretext of the identification cannot be used to circumvent the order of this Court as well as

statement of the learned Counsel for the Applicants.

6. Accordingly, the Tahsildar shall proceed with taking over the possession of the subject property on scheduled date and time i.e. on 23rd September 2025 at 9.00 a.m.

7. The Writ Petition shall be placed on 24th September 2025 as directed vide order dated 25th August 2025 and the Tahsildar shall remain present in person on that date.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)