



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 5463 of 2025

[Vishal Vijay Jaiswal **vs.** Bank of Baroda, through its Manager,
Sitabuldi Branch, Nagpur and ors.]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. Prasad Abhyankar, Advocate for the petitioner
Mr. U. N. Fuladi, Advocate for respondent nos. 1 and 2
Mr. K. R. Lule, A.G.P. for the State/respondent no. 3
Mr. Z. Z. Haq, Advocate for respondent nos. 4 and 5
Mr. V. M. Vishwarupe, Advocate for respondent no. 6

CORAM: **ANIL L. PANSARE**
AND RAJ D. WAKODE, JJ.

DATE : **04-12-2025.**

Heard.

2. The petitioner has approached this Court with following substantive prayer.

“i) Issue a writ order of direction in the nature of writ of mandamus and thereby direct the respondent no. 1 and 2 to take time bound action in terms of order dated 23.01.2024 passed in W.P. no.801/2023 (Annexure no. 20) and order dated 29.10.2024 passed in R.A. no.1/2024 in Appeal on Diary no. 1451/2022 (Annexure no. 21) and remove the movable unsecured assets from the subject property (described in paragraph no.3) and hand over vacant possession to the petitioner;”

As could be seen, the petitioner is seeking directions against respondent nos. 1 and 2 to take time bound

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action for removal of movable unsecured assets from the subject property and handover vacant possession to the petitioner.

3. The petitioner is auction purchaser. Respondent nos. 1 and 2 are secured creditor – bank. Respondent nos. 4 and 5 are the mortgagors. The movable unsecured assets lying at the suit property are admittedly belonging to respondent nos. 4 to 6.

4. Learned counsels for respondent nos. 4 to 6 make a statement that movable unsecured assets lying in the property will be removed within ten working days from today. The statement is accepted.

5. As regards handing over vacant possession to petitioner, learned counsel for respondent nos. 4 and 5 has invited our attention to paragraph no. 8 of the order dated 4-1-2024 passed by Debts Recovery Appellate Tribunal, Mumbai in appeal which is pending before it, which reads as under :-

“8. Subject to the deposit of a sum of ₹ 25 lakhs on or before 08.01.2024, the Appellants shall be entitled to stay of the handing over the possession of the property till the next date of hearing.”

6. Learned counsel for respondent nos. 4 and 5 submits that these respondents have deposited the amount in terms of the aforesaid order, rather more than what has been ordered and, therefore, the order directing handing over possession of property has been stayed. He submits that the order still holds field. He

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accordingly submits that prayer to the extent of removal of movable unsecured assets could be granted. However, he has objection to grant later part of the prayer which seeks handing over of vacant possession of the property.

7. As against, learned counsel for the petitioner submits that his grievance was as regards removal of movable unsecured assets from the subject property. So far as the possession is concerned, he claims that the possession is already handed over to the petitioner.

8. In the circumstances, the purpose of filing petition will be served, if we direct respondent nos. 4 to 6 to remove movable unsecured assets from the subject property, which even otherwise, is what the respondents have agreed to do within ten days from today. So far as status of possession of property is concerned, the parties are at liberty to put forth their claim before the appropriate forum.

9. With the above observations, the petition is disposed of.

10. The amount of ₹ 1,00,000/- deposited by the petitioner shall be returned back to him.

(JUDGE)

(JUDGE.)

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