IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 19 OF 2025

DCB Bank Ltd. Formerly Development
Credit Bank Ltd. .. Applicant
Versus
Vilas Vitthal Bobade and another .. Respondents

Shri Dhananjay K. Thote, Advocate for the Applicant.
The Respondent No. 1 is served – absent.
Shri S. N. Morampalle, A.G.P. for the Respondent No. 2.

CORAM : SHAILESH P. BRAHME, J.
DATE : 27TH JANUARY, 2026.

FINAL ORDER :

. Heard learned advocate Mr. Dhananjay Thote appearing for the applicant. None appears for the respondent No. 1 – original plaintiff. Learned A. G. P. appears for the respondent No. 2.

2. Initially writ petition was filed assailing order dated 30.06.2023 passed below Exhibit 14 in R.C.S. No. 132 of 2023. The respondent No. 1 could not be served by regular mode of service and applicant was required to adopt substituted mode of service. Through paper publication the respondent No. 1 – plaintiff was served, but no appearance was caused.

3. The writ petition was permitted to be converted into civil revision application. This Court issued notices for final disposal

to the respondent No. 1 on 13.11.2025.

4. Applicant submitted application Exhibit 35 before the Trial Court on 19.11.2025 seeking direction to apprise the plaintiff so as to enable him to appear before the High Court in the revision application or to furnish detailed address. On the same day application Exhibit 36 was submitted seeking permission to produce the copies of the revision application and orders passed therein. As such permission was granted. The Trial Court passed order of other side to say below Exhibit 35 on 19.11.2025. No say is filed on application Exhibit 35 by the plaintiff. Plaintiff had opportunity to cause appearance in this Court. It is further informed by the learned counsel for the applicant that plaintiff is not responding and he is not appearing even in the Trial Court. He is taking disadvantage of order of status quo passed in the Trial Court.

5. I have gone through record and proceedings of the Trial Court, which was called for in pursuance of orders passed by this Court. It is recorded in the roznama that on 19.11.2025 the plaintiff and his lawyer were absent. The matter was adjourned to 08.01.2026. It transpires from record that plaintiff is not responding to the orders passed by this Court. It cannot be said that he is not aware of the present proceedings. There is every reason to infer that he is avoiding to appear before this Court. I am of the considered view that the respondent No. 1 – plaintiff has sufficient information and knowledge of the present revision

application.

6. I proceed to deal with revision application on merits.

7. Heard learned counsel Mr. Thote for the applicant. It is submitted that impugned order is perverse and patently illegal because matter is squarely covered by Sec. 24 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for the sake of brevity and convenience hereinafter referred as to the "Securitization Act"). It is further submitted that a total vexatious suit has been filed seeking relief of declaration that the subject matter is not part and parcel of auction process and injunction. It is submitted that considering the mortgage of the suit house to the applicant – bank, it is open for the bank to proceed against the secured assets. The possession has already been taken and it would be open for the bank to proceed against the property to recover the outstanding. It is submitted that cause of action is illusory and outcome of cleaver drafting.

8. The suit house was transferred by the respondent No. 1 – Vilas in favour of his son Nitin by registered gift deed dated 05.02.2019. The loan of Rs. 10,69,000/- was sanctioned on 28.06.2019 for construction of house. A registered mortgage deed was executed on 04.07.2019 by Nitin in favour of the bank mortgaging the suit house.

9. It reveals from meaningful reading of the plaint that

secured asset was taken in possession by orders of District Magistrate on 03.03.2022 and it was put up for the auction to recover the debt. A notice to that effect was affixed on the house. In this context the prayer for declaration and injunction are solicited in the plaint.

10. The plaintiff is virtually challenging the action of the applicant – bank. The secured assets are in possession of the applicant and those are taken out for auction as per Sec. 13 of the Securitization Act read with Rule 8(1) of the Securitization Rules. The applicant is proceeding against the defaulter and secured assets in accordance with law. Present case is squarely covered by bar engrafted by Sec. 34 of the Securitization Act. The Trial Court committed error of jurisdiction in rejecting the application.

11. It is a proxy suit filed by the respondent No. 1. Filing of the suit is the remedy prohibited under the Securitization Act. It reveals from record that a jugulary has been played by the applicant by cleaver drafting. The subject is described in plaint para No. 1 in which house property number has not been mentioned. In para No. 6 it is stated that house property No. 8581 belonged to his son which is mortgaged with the applicant – bank. In the prayer clause there is no mention of specific house property, but only suit property is mentioned. The cause of action shown in the plaint is illusory. The absurdity is strategic and to save both the houses from the clutches of the applicant.

12. Learned counsel for the applicant is relying upon judgment of the Coordinate Bench of this Court in the matters of **Modinasab Indikar Vs. Board of Directors of Indian Overseas Bank and others** reported in ***2020(6) Mh.L.J. 244*** and **the Mapusa urban Cooperative Bank of Goa Vs. Santana Eufeginia Baptista Dias and others** reported in ***MANU/MH/4442/2022***. Both the judgments are applicable to the present case. In those cases also the relief claimed in civil suits are squarely covered by the remedies provided under the Securitization Act. Therefore, the plaints in those cases were rejected by the orders of the High Court. Present case is squarely covered. I am of the considered view that it would be an abuse of process of law to permit the suit to proceed further. I, therefore, pass following order.

O R D E R

A. The civil revision application is allowed.

B. Impugned order dated 30.06.2023 passed by the Trial Court below Exhibit 14 in R.C.S. No. 132 of 2023 is quashed and set aside.

C. Plaint in R.C.S. No. 132 of 2023 is rejected.

D. Record and proceedings be sent back to the Trial Court.

[SHAILESH P. BRAHME J.]

bsb/Jan. 26