



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

966 WRIT PETITION NO.75 OF 2026

Motilal Oswal Home Finance Limited

VERSUS

The State Of Maharashtra And Others

...
Mr. S. S. Deshpande, Advocate for the Petitioner
Mr. S. B. Narwade, AGP for Respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 06 JANUARY 2026

ORDER :

. Present petition has been filed by the financial institution contending that respondent Nos.3 and 4 have re-entered the premises i.e. the secured asset and respondent No.2 though informed has not done anything.

2. The petitioner states that it is a non banking financial company providing various types of loans. Credit facility was given to respondent Nos.3 and 4 to the tune of Rs.14,82,287/- which remained unpaid. They had immovable mortgaged property Flat No.A1, First Floor, Plot No.41, Gut No.36, S. K. Pride, Satara, Near Kamalnayan Bajaj Hospital, District

Chhatrapati Sambhajnagar in favour of the petitioner. The petitioner then initiated action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"). The order was passed by the District Magistrate on 20.01.2022 and then the intimation was given to the Tahsildar for execution. Physical possession was then taken. A notice of sale of secured assets was also placed, but the petitioner came to know that respondent Nos.3 and 4 had opened the locks of the secured assets and taken possession of the assets. FIR came to be filed on 10.07.2024 and then the petitioner had approached this Court by filing Writ Petition No.7721 of 2024, wherein Tahsildar was directed to take assistance from the police and it was directed to ensure that the possession of the flat would be delivered to the petitioner. Accordingly, the possession was taken, however, again the respondent Nos.3 and 4 have forcibly taken the possession. Therefore, a representation or intimation was given by the petitioner on 07.01.2025, however, there is no response from respondent Nos.1 and 2.

3. Taking into consideration the earlier order as well as the other correspondence, we do not find that there is necessity to issue notice to respondent Nos.3 and 4 when the order is passed under the SARFAESI Act and till the amount is realized, the petitioner would have control over

the mortgaged property.

4. We dispose of the writ petition by directing respondent Nos.1 and 2, that with the cooperation of each other, they should see that the possession of the secured asset is given back to the petitioner within a period of two months from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm