

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3815 OF 2025

PNB Housing Finance Limited .. Petitioner

V/s.

The State of Maharashtra through the .. Respondent
office of Govt. Pleader

Adv. Smit Shah, a/w Adv. Heena Lambate, for the Petitioner.

Mr. N. C. Walimbe, Addl. GP, a/w Ms. P. M. J. Deshpande, AGP for
Respondent/State.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

DATE : 17TH MARCH 2026.

PC:

1. The learned counsel for the petitioner submits that in terms of earlier order passed by this Court, the petition has been amended by correcting the address of Respondent No. 4 and the amended copy has been e-filed.

2. For the convenience of this Court, amended physical copies were also tendered.

3. The petitioner is a secured creditor. The Respondent No. 2- Competent Magistrate passed an order dated 10th January 2024, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) for taking physical possession of the secured asset, being a flat in a cooperative housing society at

Ambarnath (Thane).

4. In pursuance thereof, physical possession of the secured asset was taken on 27/09/2024.

5. But, according to the petitioner, thereafter the borrowers trespassed into the secured asset between December 2024 and January 2025. Photographs have been placed on record to show that the secured asset has been trespassed by the borrowers or a third party at the behest of the borrowers.

6. We are of the opinion that unless appropriate orders are passed issuing specific directions to the Respondent No. 3 Tahsildar and Respondent No. 4 Police Inspector of the concerned police station, such flagrant violations of the rule of law would continue and orders passed in favor of secured creditors like the petitioner under the provisions of the SARFAESI Act would stand frustrated. We have observed that in a number of such cases, secured creditors are constrained to approach this Court for seeking appropriate directions as the concerned Tahsildars have found difficulty to execute the order passed by the Competent Magistrate and where such orders have been executed, the borrowers or third parties at the behest of borrowers have been encroaching upon the secured asset, particularly when the secured asset is a flat in cooperative housing society.

7. In view of the above, we direct the Respondent No. 3 - Tahsildar, Ambarnath (Thane) to issue notice for taking physical possession of the secured on 30th March 2026. The Respondent No. 3 Tahsildar shall take physical possession of the secured asset on the said date, for which purpose the Respondent No. 4- Senior Police Inspector of Shivajinagar Police Station, Ambarnath shall provide proper police assistance including lady constables for the execution of the said direction of this Court. The police force shall use proportionate, reasonable and necessary force for taking physical possession of the secured asset from the trespassers which may even be third parties.

8. It is made clear that if the aforesaid direction given by this Court is not complied with, the Respondent No. 3 Tahsildar, Ambarnath and Respondent No. 4 Senior Police Inspector, Shivajinagar Police Station, Ambarnath shall remain personally present in this Court on the next date of listing.

9. List on 2nd April 2026, for compliance.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)