IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5508 OF 2026

Mogaveera Co-Operative Bank Ltd. .. Petitioner
V/S.
State of Maharashtra and Ors .. Respondents

Mr. C. M. Jadhav, i/b SC Legal, for the Petitioner.
Ms. M. S. Bane, AGP for the Respondent/State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
DATE : 5TH MAY 2026.

ORDER (PER SHREERAM V. SHIRSAT, J):

1. The petitioner, who is a secured creditor constrained to approach this Court seeking appropriate directions against Respondent Nos. 3 and 5 for ensuring that the order passed by Respondent No. 2 way back in the year 2023, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (also known as the SARFAESI Act), is duly executed.

2. The Ld. Counsel for the Petitioner submitted that the borrowers had defaulted in payment of the loan and therefore, the petitioner classified the loan as a Non-Performing Asset (NPA) as per the directives and guidelines issued by the Reserve Bank of India from time to time. It is

submitted by the learned counsel for the petitioner that a demand notice under Section 13(2) was issued and thereafter, upon failure of the borrowers to repay the loan, filed an application under Section 14 of the SARFAESI Act before Respondent No. 2 for taking possession of the secured asset. The learned counsel further submitted that vide order dated 3rd April 2023, the Respondent No. 2 allowed the application directing Respondent No. 3, i.e. the Tahsildar/ Executive Magistrate, Thane, to take physical possession of the secured asset and to hand over the same to the petitioner.

3. Learned counsel further submitted that on 9th October 2023, the Respondent No. 3 issued notice to the borrowers and informed that the possession of the secured asset shall be taken on 23/1/2024. However, the possession could not be taken due to non-availability of police protection. He further submitted that on 9/8/2024, the Respondent No. 3 fixed 25th October 2024 as the date for taking possession of the secured asset, however, Respondent No. 3 could not come for taking the physical possession and therefore, the process had to be abandoned. He further submitted that once again on 21st January 2025, the Respondent No. 3 scheduled the date as 1/3/2025 for taking physical possession of the secured asset, however, once again, the process had to be abandoned as the Respondent No. 3, i.e the Tahsildar could not remain present.

4. The learned counsel for the petitioner submitted that the approach of the Respondent Nos. 3 and 5 has been very casual which has caused serious prejudice in the recovery measures initiated by the petitioner. He therefore submitted that necessary directions are required to be issued so that the orders passed by Respondent No. 2 are followed with the seriousness it deserves.

5. We are of the opinion that when the Petitioner who is a secured creditor is seeking execution of the orders passed by the learned Magistrate under the provisions of the SARFAESI Act and such orders are required to be executed with utmost promptitude. This Court in the case of ***L & T Finance Limited vs State of Maharashtra and Ors*** [(2023) SCC OnLine Bom 931], has observed that every order passed by the District Collector under section 14 of the SARFAESI Act should be implemented and executed not later than four weeks of the passing of the order.

6. We find that the inordinate delay in taking possession of the secured asset has been caused due to a casual and cavalier approach of Respondent Nos. 3 and 5 and therefore, the following directions are required to be issued.

7. We therefore direct that the Respondent No. 3 shall ensure that immediate steps are taken with the assistance of Respondent No. 5 to hand over the possession of the secured asset to the petitioner by following the

due process of law. The Respondent No. 5 shall provide appropriate police assistance to Respondent No. 3 who shall take physical possession of the secured asset on 10th May 2026. Needless to mention that Respondent No. 5, shall ensure adequate police force is provided, which shall include lady constables as well. The police shall use adequate, reasonable, proportionate and necessary force to take physical possession of the secured asset to be handed over to the petitioner (secured creditor) on 10th May 2026. The police shall also videograph the entire process of taking possession and preserve the recording of the same for any future reference.

8. It is made clear that if the directions issued hereinabove are not complied with by the Respondent Nos. 3 and 5, the Respondent Nos. 3 and 5 shall personally remain present on the next date in this Court to give an explanation as to why the possession could not be taken on the specified date.

9. List under the caption “For Compliance” on 11th June 2026.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**