

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5734 OF 2025**

Motilal Oswal Home Finance Ltd.
(Formerly known as Aspire Home
Finance Corporation Limited) ... Petitioner
vs.
The State of Maharashtra,
District Magistrate, Pune, and others ... Respondents

**WITH
WRIT PETITION NO. 807 OF 2026**

Mr. Navin Arora a/w. Mr. Shreyas Deshpande and Ms. Netra Satra for
petitioner in both petitions.

Mr. B. V. Samant, Addl. GP a/w. Mr. V. G. Badgujar, AGP for respondent-
State in WP/5734/2025.

Ms. M. S. Bane, AGP for respondent-State in WP/807/2026.

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

DATE : 23rd JANUARY, 2026

P.C. :

Writ Petition No.5734 of 2025:

. This is a disposed of writ petition in which the grievance of the petitioner is that after the petition was disposed of with a direction to the respondent-State authorities to ensure that the possession of the subject property was handed over to the petitioner, in pursuance of an order passed by the competent Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act), the original borrowers i.e. respondent Nos.3 and 4, on the very next day, again trespassed into the subject property.

2. This petition was listed with a bunch of other petitions, when a Division Bench of this Court (Coram: R. I. Chagla and Farhan P. Dubash, JJ) directed issuance of notice to the original borrowers i.e. respondent Nos.3 and 4. On the last occasion, we had called upon the Registry to submit the service report. Surprisingly, the Registry has not submitted the same.

3. The Registry is directed to comply with the order dated 12.01.2026.

4. We have come across a number of such petitions, filed by banks and financial institutions, who are facing difficulties in ensuring execution of the orders passed by the competent Magistrates under Section 14 of the Securitisation Act.

5. On certain occasions, the writ petitions are filed by the banks and financial institutions for execution of such orders passed by the competent Magistrates, as the concerned State authorities, including the *Tahsildar* and police officers, do not co-operate with the banks and financial institutions for ensuring that physical possession of such properties is handed over, in compliance with such orders.

6. In other cases, writ petitions are filed where orders passed by the competent Magistrates are executed and possession is handed over to the banks and financial institutions, post which the borrowers again trespass into the properties in blatant violation of rule and law. In such situation also, the banks and financial institutions are constrained to file writ petitions in this Court or approaching this Court in disposed of petitions, seeking directions.

7. Such writ petitions have been flooding this Court, as a result of which this writ Court finds it difficult to devote time to more pressing matters and this Court is virtually reduced to an executing Court for orders passed by the competent Magistrates under Section 14 of the Securitisation Act.

8. Taking note of such situations, a Division Bench of this Court (Coram: Smt. Vibha Kankanwadi and Hiten S. Venegavkar, JJ), recently on 06.01.2026, passed an order issuing certain guidelines to deal with such situations. A perusal of the said order does show that the aforesaid Division Bench of this Court at Aurangabad, impressed upon the said authorities that in such cases, where encroachments are being made by the borrowers and others, despite execution of orders passed by the competent Magistrate under Section 14 of the Securitisation Act, immediate steps must be taken by all concerned officers and public servants to ensure that such trespassers are physically thrown out, by treating such action as giving full effect to the original orders passed by the competent Magistrates against the borrowers. This indicates that the aggrieved banks and financial institutions need not rush to the Writ Court on such occasions.

9. But, today when we took up the present petition for further consideration, the counsel appearing in similar matters addressed this Court and indicated the practical difficulties faced by the banks and financial institutions in such situations. It was specifically submitted that when the subject property is a flat or an apartment in a society, after possession of such properties is taken, in pursuance of the orders passed by the competent Magistrate under Section 14 of the Securitisation Act, security personnel cannot be appointed, as

there is objection raised by other members and office bearers of the society. As a consequence, there is no way the banks and financial institutions can ensure that such properties are not trespassed by the borrowers or others.

10. The learned AGPs also gave suggestions as to the manner in which the guidelines can be framed. We are really concerned with the prompt obedience of the orders passed by the Magistrates and this Court and also that remedies are available to the banks and financial institutions in such a manner that they are not required to rush to the Writ Court on every occasion.

11. In that light, even if further guidelines are to be issued, this Court would require assistance and in this backdrop, we request the learned Advocate General to appear in this petition on the next date, to assist this Court in framing such guidelines. The learned AGP appearing in the present petition assures that the learned Advocate General shall be informed about the same.

12. Insofar as the present petition is concerned, considering the fact that respondent Nos.3 and 4 have again trespassed into the property, after they were thrown out in pursuance of the order dated 04.07.2025 disposing of the present petition, we direct that respondent No.2 shall take immediate steps to physically throw out respondent Nos.3 and 4 from the subject property and handover physical possession to the petitioner. The aforesaid steps shall be taken within one week from today. The petitioner shall produce a copy of this order before respondent No.2. A copy downloaded from the website of this Court and/or an authenticated copy shall suffice.

13. List this petition along with following petitions for further consideration on 04.02.2026 at the top of the cause-list:

- (i) Writ Petition No.807 of 2026,
- (ii) Writ Petition No.17843 of 2025,
- (iii) Writ Petition No.14917 of 2025,
- (iv) Writ Petition No.19286 of 2024,
- (v) Writ Petition No.19287 of 2014,
- (vi) Writ Petition No.19288 of 2024,
- (vii) Writ Petition No.19289 of 2024,
- (viii) Writ Petition No.19290 of 2024,
- (ix) Writ Petition No.19292 of 2024,
- (x) Writ Petition No.19294 of 2024,
- (xi) Writ Petition No.19295 of 2024,
- (xii) Writ Petition No.14471 of 2025,
- (xiii) Writ Petition (Stamp) No.37851 of 2025 and
- (xiv) Writ Petition (Stamp) No.25165 of 2025

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)