

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9560 OF 2025

Encore Asset Reconstruction Company

Private Limited

... Petitioner

Versus

Union of India & Ors.

... Respondents

WITH

WRIT PETITION NO. 1423 OF 2025

(Not on Board. Taken on Board.)

M/s. Eesha Packaging & Ors.

... Petitioners

Versus

Union Territory of Daman & Diu,

Daman & Ors.

... Respondents

Mr. Nikhil Rajani a/w Mr. Ajay Deshmane i/by V. Deshpande & Co. for the Petitioner in WP/9560/2025 and for Respondent No.3 in WP/1423/2025.

Mr. Mohit Khanna a/w Mr. Kunal Chheda for Respondent Nos.2 to 4 in WP/9560/2025 and for Petitioners in WP/1423/2025.

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

DATE : 24th APRIL 2026

P.C. :

. The petitioner No.1 is a secured creditor and petitioner No.2 is its Authorized Officer. The petitioners are aggrieved by order dated 16th January 2025 passed by District Magistrate, Daman, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act). On the petitioners approaching the said

Magistrate, while directing the Mamlatdar to take possession of the secured asset with assistance of the Police, the Magistrate has proceeded to direct that possession of the secured asset shall be handed over to the Omnibus Industrial Development Corporation, Daman (OIDC).

2. According to the petitioners, the Magistrate exceeded his jurisdiction while passing the impugned order and on this ground, the order deserves to be set aside.

3. The learned counsel appearing for respondent Nos.2 to 4 informs this Court that the very same order of the Magistrate was already challenged by the said respondents by filing Writ Petition No. 1423 of 2025 and that on 3rd December 2025, a co-ordinate Bench of this Court directed that the said impugned order shall not be acted upon, as a jurisdictional issue has been raised. On this basis, it is submitted that this Court may consider taking Writ Petition No. 1423 of 2025 on board. We are of the opinion that since both the writ petitions are challenging the same impugned order dated 16th January 2025 passed by the Magistrate, it would be appropriate to take Writ Petition No. 1423 of 2025 on board. Accordingly, it is taken on board and heard along with Writ Petition No. 9560 of 2025.

4. We find substance in the contention raised on behalf of the petitioners in both the writ petitions. As per settled law recognized by the Supreme Court in its judgments in the cases of *NKGSB Cooperative Bank Limited vs. Subir Chakravarty & Ors.*, (2022)

10 SCC 286 and *Balkrishna Rama Tarle (dead through legal representatives) & Anr. vs. Phoenix ARC Private Limited & Ors.*, (2023) 1 SCC 662, followed by Division Bench of this Court in the case of *L & T Finance Limited vs. State of Maharashtra & Ors.*, 2023 SCC OnLine Bom 931, the Magistrate, while passing order under Section 14 of the Securitisation Act, undertakes ministerial steps. It is clarified in the said judgments that there is no element of an even a quasi-judicial function performed by the Magistrate and therefore, we find that in the facts of the present case, the impugned order suffers from a jurisdictional error.

5. A perusal of the impugned order shows that the Magistrate not only entertained the application by the OIDC, but issued directions in the light of the demands made by OIDC, eventually directing the possession of the secured asset to be handed over to OIDC, while the application under Section 14 of the Securitisation Act had been triggered by the petitioner No.1, as the secured creditor.

6. According to us, the Magistrate committed a fundamental error in passing the impugned order and ended up performing a quasi-judicial function, which is in the teeth of the aforesaid position of law recognized by judgments of the Supreme Court and this Court. On this short ground, the impugned order deserves to be set aside.

7. Accordingly, the writ petitions are allowed. The impugned order dated 16th January 2025 is quashed and set aside.

8. The matter is remitted to the District Magistrate, Daman for consideration afresh of the application filed by the petitioners in Writ Petition No. 9560 of 2025 under Section 14 of the Securitisation Act.

9. It is made clear that the Magistrate shall decide the application in line with the aforesaid position of law clarified by the Supreme Court and this Court. The application shall now be decided within four weeks from today.

10. Needless to say, the rights and contentions of parties are kept open.

11. Affidavit of service tendered in Writ Petition No. 9560 of 2025, is taken on record.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)