

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15767 OF 2025

Prakash Padurang Bhoir .. Petitioner
V/s.

The State of Maharashtra Thr. The .. Respondents
Principal Secretary Revenue
Department and Ors

WITH
INTERIM APPLICATION NO. 907 OF 2026

Indian Bank Sam Thr. Deep Ak Kumar .. Applicant
Vaishnav Chief Manager
V/s.

Prakash Padurang Bhoir .. Respondent

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Mr. Shubham Thakur, for the Petitioner.

Mr. O. A. Chandurkar, Addl. GP, a/w Mr. Y. D. Patil, AGP for the Respondent/State.

Ms. Tejasvi Dalvi, for the Applicant in IA/907/2026 and for Respondent No. 7 in WP/15767/2025.

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

DATE : 17TH FEBRUARY 2026.

PC:

1. Heard learned counsel for the parties. The Respondent No. 7-Bank (Secured Creditor) has been constrained to file Interim Application No. 907 of 2026 in peculiar circumstances and praying for relief, which is also peculiar in nature.

2. The applicant (Respondent No. 7- Bank) has prayed for a direction to the petitioner to take away his Rottweiler Dog from the premises of the secured asset, which has been sold in accordance with law by the applicant. Alternatively, it is prayed that the District Deputy Commissioner, Animal Husbandry and Dairying, Thane or Member Secretary of the Society for Prevention of Cruelty to Animals, Thane be directed to take custody of the said animal.

3. The applicant (Respondent No. 7- Bank) took steps under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) in respect of the secured asset as the original borrower i.e. Respondent No. 4 failed to pay its dues. The Applicant/Respondent No. 7- Bank invoked Section 13(2) and (4) of the SARFAESI Act and thereupon, applied to the Magistrate under Section 14 thereof for taking physical possession of the secured asset. The applicant thereafter conducted auction and sold the secured asset to the auction purchaser. The only impediment, as on today, is the fact that the aforesaid animal is in the premises of the secured asset and creating an obstruction for the auction purchaser to enter upon the property.

4. The learned counsel for the applicant further informs this Court

that the petitioner, who is not in physical possession anymore, is only permitted to feed the animal at the premises. Repeated requests made to the petitioner to remove the animal have not resulted in any positive action, due to which the applicant is constrained to move the present application.

5. The writ petition is filed by the petitioner to challenge an order passed as far back as on 29th October 2020, by the Competent Magistrate under the Section 14 of the SARFAESI Act. It appears that it took about five years for the applicant (Respondent No. 7- Bank) to take actual physical possession of the secured asset in September 2025.

6. The petitioner claims rights in the subject property on the basis of statements made in the writ petition and alleged transaction with Respondent No. 5 i.e. the original mortgagor of the property in question.

7. We find that the challenge raised by the petitioner is not only belated, but it is in the face of existence of an alternative statutory remedy of approaching the Debts Recovery Tribunal under the provisions of the SARFAESI Act.

8. When we indicated that we are not inclined to entertain the

petition any further, the learned counsel for the petitioner submitted that the petitioner desires to file a suit and in that context, the petition may be permitted to be withdrawn.

9. In view of the discussion hereinabove, we are inclined to allow the interim application and dispose of the writ petition.

10. The Interim Application No. 907 of 2026 is allowed and the petitioner is directed to remove the aforesaid animal (Rottweiler Dog) from the premises of the subject secured asset within a period of one week from today, failing which the District Deputy Commissioner, Animal Husbandry and Dairying, Thane is directed to take custody of the said animal forthwith.

11. The writ petition is dismissed. Needless to say, the dismissal of the writ petition will not come in the way of the petitioner in taking recourse to such remedies as may be available in law. It is further made clear that the petitioner will not create any further obstructions with regard to the subject secured asset.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)