

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15986 OF 2025

The Lala Urban Co Op. Bank Ltd

Thru. Officer

...Petitioner

Versus

The State of Maharashtra

Thru. G.P. And Ors

...Respondents

Mr. Prashant Darandale, for the Petitioner.

Ms. A. A. Alaspurkar, AGP for the Respondent/State.

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

DATE: 27th JANUARY 2026.

P.C.

1. Heard learned counsel for the petitioner- bank. This is another petition demonstrating the plight of banks and financial institutions to obtain possession of secured interest, i.e., an immovable property in pursuance of an order passed by a competent Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). We have observed in a number of cases that after possession is handed over on the basis of such orders, the borrowers again encroach upon the subject properties, due to which the banks and financial institutions are required to approach the police as well as the concerned Tahsildar and eventually, the writ Court for re-execution of the order of the Magistrate.

2. We find that in such cases, this writ Court is virtually reduced to an executing Court for the orders passed by the competent Magistrate. We are contemplating issuing comprehensive directions in such petitions, but the disposal of the present petition need not await the same.

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3. This is because the facts of the present case are evident from the documents filed along with the petition. The order of the competent Magistrate in this case was passed as far back as on 25th February 2022 under Section 14 of SARFAESI Act. Pursuant thereto, on 20th August 2024, possession of the subject immovable property, i.e., the flat, was handed over to the petitioner-bank. Panchanama was duly executed, recording the aforesaid fact of handing over possession to the petitioner- bank.

4. Immediately thereafter on the next date, i.e., on 21st August 2024, the borrower again encroached upon the said flat, thereby frustrating the entire exercise undertaken by the petitioner- bank. In that regard, on 22nd August 2024, the petitioner submitted a complaint to the concerned police station. The record shows that the F.I.R. was eventually registered in that context on 19th October 2024. Prior to that, on 9th October 2024, the petitioner- bank had approached the concerned Magistrate as well as the Tahsildar airing its grievance about such encroachment undertaken by the borrower.

5. Despite the aforesaid measures, till date the borrower continues to encroach upon the subject property and the petitioner-bank is constrained to file the present writ petition.

6. Considering the gross facts of the present case, we are inclined to dispose of the same on the first date of hearing itself, as the learned AGP represents the State Authorities, i.e., Respondent Nos. 1 to 4. In the facts of the present case, we do not find it necessary to issue notice to Respondent No. 5, who is the borrower.

7. The writ petition is disposed of by directing the Respondent No. 3- Tahsildar to take immediate steps to hand over vacant possession of the subject flat to the petitioner- bank by removing the trespasser at the earliest. Respondent No. 3 – Tahsildar shall take police aid to carry out the aforesaid exercise, for which purpose Respondent No. 4 - Superintendent of Police, Pune City is directed to provide adequate police assistance. The

said steps shall be taken in pursuance of the order dated 25th February 2022 already passed by the Magistrate under Section 14 of the SARFAESI Act.

8. The Respondent Nos. 2, 3 and 4 are directed to ensure that the aforesaid directions are complied with, positively on or before 9th February 2026. The respondent shall act upon a copy of this order downloaded from the website of this Court or on an authenticated copy of the order.

9. List the petition for compliance on 11th February 2026.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)