

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16883 OF 2025**

Tata Capital Housing Finance Ltd.,
Through Legal Manager Mr. Sameesh Sahadevan ... Petitioner
vs.
The State of Maharashtra and others ... Respondents

Mr. Nikhil Mehta, i/b. KMC Legal Venture for petitioner.

Ms. Ashwini A. Purav, AGP for respondent No.1-State.

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

DATE : 28th JANUARY, 2026

P.C. :

. The grievance raised in this petition demonstrates the plight suffered by banks and financial institutions, when possession of the secured asset is taken, pursuant to 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).

2. In the present case, upon execution of such an order, the petitioner was put in possession of the subject property and on the very same day, the borrowers and others encroached upon the property.

3. The relevant dates concerning the present petition are that on 19.03.2025, the competent Magistrate i.e. the Additional Chief Judicial Magistrate (ACJM), Pune, passed an order under Section 14 of the Securitisation Act, allowing the application filed by the

petitioner and directed that possession of the subject property shall be taken and handed over to the petitioner. A Court Commissioner was appointed to take possession by taking necessary steps, including breaking open all locks, etc. The said order could eventually be executed after 6 months on 18.09.2025. On the said date, the petitioner was put in possession of the subject property.

4. But, on the very same day, the borrowers and others encroached upon the subject property, thereby dispossessing the petitioner, who was put in possession, in pursuance of the order passed by the competent Magistrate. In that light, on on the same day at 23.40 hours, an FIR was registered in Market Yard Police Station, Pune, with regard to the aforesaid act of encroachment on the part of borrowers and others.

5. The petitioner also approached the State authorities, raising its grievance. But, till date, the petitioner has not been put back in possession of the subject property. The aforesaid turn of events shows scant regard for rule of law on the part of the borrowers and others. The encroachment has taken place on the very date on which the petitioners were put in possession on the strength of the order passed by the competent Magistrate under Section 14 of the Securitisation Act.

6. We are of the opinion that the writ petition can be disposed of by issuing appropriate directions to restore the possession of the petitioner.

7. Accordingly, the respondent No.2-Court Commissioner appointed as per order dated 19.03.2025 passed by the ACJM, Pune,

shall take necessary steps with police aid to put the petitioner back in possession of the subject property.

8. Respondent No.3-Senior Police Inspector, Marketyard Police Station, Pune is directed to provide all necessary police force for the assistance of the Court Commissioner to abide by the aforesaid directions issued by this Court.

9. Respondent Nos.2 and 3 shall act as per the order of this Court and for execution of the order dated 19.03.2025 passed by the ACJM, Pune. In other words, no fresh proceeding is necessary for taking action for putting the petitioner back in possession.

10. The necessary steps shall be taken and the petitioner shall be put in possession of the subject property on or before 02.02.2026.

11. List the petition on 04.02.2026 under the caption 'for compliance'.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)