IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3703 OF 2026

IIFL Home Finance Ltd. ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

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Mr. Aayush Kothari a/w Ms. Priyanka Fadia i/by Mr. Shashank Fadia for the Petitioner.
Mrs. G. R. Raghuwanshi, AGP for Respondent Nos.1, 6, 7 and 8-State.
Mr. Vishal Dushing a/w Mr. Vaibhav Salvi for Respondent Nos.2 to 4.

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

DATE : 9th APRIL 2026

P.C. :

. The petitioner (secured creditor) is constrained to approach this Court, in the light of order dated 14th July 2025 passed by the Debts Recovery Tribunal, Pune (DRT). According to the petitioner, the respondent Nos.2 to 5 (borrowers) have misused the indulgence shown by DRT in the aforesaid order dated 14th July 2025 and they are squatting in the subject property (secured asset), in the face of their inability to regularize the defaulted loan account.

2. The respondent Nos.2 to 4 (borrowers) have appeared through counsel and filed their reply affidavit.

3. The relevant portion of the order dated 14th July 2025 passed by the DRT in IA No. 2076 of 2025 in Securitisation Application No. 461 of 2023 reads as follows :

> *"6. Perused the record. Admittedly, this is fifth round of litigation. Also admittedly order passed in earlier Interlocutory Applications have not been complied with by the applicants. More so, IA 417/2025 claiming same relief has claimed in this application was dismissed.*
>
> *7. In the circumstances, the applicants are not entitled for remedy. However, the suit property is house where the applicants along with their family are residing and it is their only shelter. Considering rainy season, I am of the opinion that last opportunity for settlement should have to be given to the applicants by permitting him to reside in the suit property for some period as an Agent of the defendant.*
>
> *8. In view of these observations, I pass the following order.*
>
> ***<u>ORDER</u>***
>
> *A} The applicants shall hand over possession of the suit property described in this application on 15.07.2025 by 01.00 p.m. to the defendant Finance Company and immediately the defendant shall keep the applicants in the suit property as its Agent for six weeks.*
>
> *B} The applicants shall settle loan account within six weeks. If they fail to settle loan account within six weeks, they shall hand over vacant and peaceful possession of the suit property to the defendant immediately.*
>
> *C} The applicants shall not create third party interest in respect of the suit property during this period of six weeks.*
>
> *Pronounced in open Court."*

4. A perusal of the above quoted portion of the order, shows that in any event, if the respondent Nos. 2 to 4 failed to settle the

loan account within the period of six weeks, they were required to handover vacant and peaceful possession of the secured asset to the petitioner. It is an admitted position that the respondent Nos.2 to 4 failed to do so. In that light, we have no hesitation to hold that the petitioner, as a secured creditor, is entitled to obtain physical possession of the secured asset.

5. The learned counsel for the petitioner has invited attention of this Court to a recent order dated 1st April 2026 passed by the DRT in an interim application filed on behalf of the petitioner in the pending securitisation application, for a direction to the Court Commissioner or authorized officer, to obtain physical possession of the secured asset, if required with police aid. The said order dated 1st April 2026 passed by the DRT, reads as follows :

> *"Read. Heard both. If the applicant failed to settle Loan A/c within three weeks from today he shall surrender vacant possession of suit property without reference to Court immediately. If he failed to do so the defendant may take possession of suit property immediately with Police aid.*
>
> *sd/-*
> *1-4-26*
> *PO*
> *DRT, Pune"*

6. We find that the DRT has given a breather to respondent Nos.2 to 4 to settle the loan account, failing which the physical possession of the secured asset would be immediately taken through Police aid. The said breather granted by the DRT is upto 21st April 2026.

7. In view of the above, we are of the opinion that respondent Nos.2 to 4, despite having violated the order dated 14th July 2025 of the DRT, have one last opportunity to settle the loan account upto 21st April 2026. They are at liberty to do so. But, if they fail to settle the loan account within the said period of time, it would be appropriate to issue direction in this petition, so that the petitioner being the secured creditor is no longer required to run from pillar to post to take physical possession of the secured asset.

8. We have observed in a number of such cases that despite the secured creditor having taken recourse to law and procedure prescribed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act), the actual act of taking physical possession is delayed, thereby frustrating the very object of the Securitisation Act and the steps taken thereunder by the secured creditor.

9. In view of the above, it is directed that, in the event, the respondent Nos.2 to 4 (borrowers) fail to settle the loan account with the petitioner (secured creditor) upto 21st April 2026 in terms of aforesaid order dated 1st April 2026 passed by the DRT, the respondent No.7 i.e. the Executive Magistrate and Residential Naib Tehsildar, Haveli, Pune, shall take physical possession of the secured asset on 24th April 2026. The Senior Inspector of Waraje Malwadi Police Station, Pune, shall provide adequate Police assistance to the respondent No.7-Naib Tehsildar to execute the said direction of this Court, by providing necessary police

personnel, including lady constables. The police shall use adequate, reasonable and necessary force to take physical possession in order to execute the aforesaid direction. The possession of the secured asset shall be handed over on the same date to the petitioner (secured creditor).

10. In the event, the aforesaid direction issued by this Court is not complied with, the respondent No.7-Naib Tehsildar and Senior Inspector of Waraje Malwadi Police Station, Pune, shall remain personally present in the Court, on the next date of listing.

11. List the petition, under the caption ‘for compliance’ on 28th April 2026.

12. Needless to say, the petitioner shall provide the exact amount outstanding to the respondent Nos.2 to 4 by 11th April 2026.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

BIPIN DHARMENDER PRITHIANI
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