IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4335 OF 2026

AU Small Finance Bank Limited	…	Petitioner
vs.		
The State of Maharashtra and others	…	Respondents

Mr. Sanjay Anabhawane, i/b. Ms. Medha Rane for petitioner.
Mr. R. S. Pawar, AGP for respondent – State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ
DATE : 15th APRIL, 2026

P.C. :

. This petition was listed on 10.04.2026, when we had adjourned the hearing to today, to enable the learned AGP to take instructions in the matter on the question as to whether respondent No.3 – Executive Magistrate / Resident Naib Tahsildar of Haveli, Pune had fixed the date for taking physical possession of the secured asset.

2. The learned AGP, on instructions, makes a statement that now the date for taking physical possession of the secured asset is fixed as 23.04.2026.

3. This is another case of blatant violation of rule of law by unscrupulous borrowers. It is the third occasion on which the borrowers have illegally trespassed into the subject property (secured asset).

4. The petitioner being a secured creditor, took steps under the provisions of the Securitisation and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002 in accordance with law and the order passed by the competent Magistrate was duly executed for taking possession of the secured asset. But since the said property was encroached upon and trespassed by the borrowers, the petitioners were constrained to approach this Court by filing Writ Petition No.899 of 2025. On 14.08.2025, this Court passed an order which resulted in possession of the secured asset being taken on 20.09.2025. Shockingly, on 17.01.2026, again the borrowers trespassed into the property (secured asset).

5. It is brought to our notice that the petitioner approached the competent Magistrate for appropriate orders. But, the application is still pending. It is to be noted that this Court, in the case of *Nashik Merchant Co-operative Bank vs. The District Collector, Jalna and others* (**judgement and order dated 28.02.2023 passed in Writ Petition No. 10069 of 2022**), had specifically held that the Magistrate does not become *functus officio* and that the Magistrate can be approached again for repossession, in such cases. We are surprised that the competent Magistrate has kept the application pending without immediate appropriate orders.

6. Be that as it may, now that the date for taking physical possession of the secured asset is fixed as 23.04.2026, respondent No.3 – Resident Naib Tehsildar is directed to ensure that physical possession of the secured asset is made over to the petitioner on the said date. Respondent No.5 – Senior Inspector of Police, Sahkarnagar Police Station is directed to provide appropriate police assistance to respondent No.3, including providing lady constables. The police shall use reasonable, appropriate and necessary force to take physical possession and to hand over the same to the petitioner.

7. It is made clear that if the aforesaid directions are not followed, respondent Nos.3 and 5 shall remain personally present in this Court on the next date of listing.

8. The movable items, if any, found in the said property (secured asset) shall be removed and placed in a godown belonging to the petitioner (secured creditor). Thereupon, the petitioner shall inform the borrowers (respondent Nos.6 to 9), for them to collect the said movables.

9. In order to obviate any allegation about nature of movables found in the said property, it is directed that the petitioner, at its own cost, shall ensure videography of the action of taking physical possession of the property and shifting of the movables to the godown of the petitioner.

10. List for compliance on 27.04.2026

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

Priya Kambli