

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4815 OF 2026

Abhudaya Co-op Bank Ltd. & Anr. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Nikhil Rajani i/by M/s. V. Deshpande & Co. for Petitioners.
Mrs. P. M. Joshi-Deshpande, AGP for Respondent-State.
Mr. Dhananjay R. Bhosale for Respondent No.6.

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

DATE : 5th MAY 2026

P.C. :

. In this petition, on 16th April 2026, this Court had issued notice, returnable today. Respondent Nos. 1 to 5 being Authorities of State are represented by the learned AGP. Respondent No.6 is the borrower, while respondent Nos.7 to 10 are the guarantors. Respondent No.6-borrower is represented by counsel today.

2. The learned counsel appearing for respondent No.6-borrower is seeking time to file reply affidavit.

3. We are not inclined to grant adjournment, in the light of the conduct of the said respondent, evident from the documents placed on record. The contents of the said documents and the conduct of the respondent No.6, evident from the said documents,

is not denied on behalf of respondent No.6 and therefore, we are proceeding to dispose of the writ petition.

4. In this petition filed by the petitioner No.1-bank (secured creditor), it is found that as far back as on 31st January 2020, the Competent Magistrate had passed an order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act) for taking physical possession of the secured assets i.e. Plot Nos.31 and 32 situated in Gat No.8, Opposite Pune Solapur Road, Near Baramati Road Phata at Post Village Kurkumbh, Tal. Daund, Dist. Pune. On plot No.32 is a hotel being run by the respondent No.6-borrower.

5. The petitioner No.1 had to pursue the matter for taking the physical possession of the secured assets in pursuance of the order passed by the Competent Magistrate and eventually, they were constrained to file a Writ Petition No. 5007 of 2025. Upon this Court in order dated 29th April 2025 passed in Writ Petition No. 5007 of 2025 observing that it was open for the petitioner No.1 to seek police protection for taking physical possession of the secured assets, the date for taking physical possession was fixed as 11th June 2025.

6. It is at this belated stage that the respondent No.6 moved interim application bearing Interim Application No. 1768 of 2025 in pending Securitisation Application No. 90 of 2020 before the Debts Recovery Tribunal, Pune (DRT). The DRT not only

entertained the application, but proceeded to pass a specific order.

The relevant portion of the said order reads as follows :

- “7. Further, he submitted that at present the applicants are facing financial problem and their source of income is only lodging business in the suit premises. They will generate funds and deposit Rs.50 lakhs within 45 days and again make the OTS proposal and settle the dues. If Court directs the applicants will occupy the suit plots as an agent of the defendants. Therefore, relief as claimed may be granted.*
- 8. The learned Advocate appearing for defendant bank submitted that 28 plots are not secured/mortgaged for the said loan and only suit plots i.e. Plot Nos.31 & 32 are mortgaged for the said loan. Today’s dues are more than Rs.8 Crores. Therefore, though applicants surrender suit plots and occupy the same as an agent, they may be directed to deposit substantial amount considering huge amount is due. Otherwise application may be rejected.*
- 9. In view of submissions of both the parties and since applicants are ready to surrender physical possession of 19 unsecured plots and ready to occupy the suit plots i.e. Plot Nos.31 & 32 as an agent as they are generating funds from running lodging business therein and further they are ready for settlement, in my opinion, they should have to be protected by imposing conditions. Therefore, I pass the following order:*

ORDER

- A. The applicants shall handover possession of suit plots i.e. Plot Nos.31 & 32 to the defendant bank by 1.00 p.m. on 11th June, 2025 and defendant bank shall immediately put the applicants in possession of the same as its Agent for six weeks.*
- B. The applicants shall not create third party interest in respect of the suit plots till they are in possession of the same.*
- C. The applicants shall deposit 5% of Demand Notice amount within two weeks from today. In default, the defendant bank is entitled to take possession of the suit plots.*
- D. The applicants shall surrender physical possession of unsecured nineteen plots bearing Plot Nos.1 to 15 and 21 to*

24 to the defendant bank at 1.00 p.m. on 16th June, 2025, as agreed.

E. This application is disposed of.

Pronounced in open Court.”

7. The operative portion of the above quoted order makes it abundantly clear that the moment the respondent No.6 defaulted in abiding by the directions of the DRT, the petitioner No.1 would be entitled to repossession of the secured assets. As a matter of fact, we are surprised that in the face of the order passed by this Court, the DRT proceeded to pass the aforesaid order dated 10th June 2025. Be that as it may, on 11th June 2025, physical possession of the secured assets was taken by the petitioner No.1-bank and then immediately the respondent No.6 was again put back in possession for a period of six weeks. Documents on record show that an agency agreement dated 11th June 2025 was executed between the petitioner No.1 and respondent Nos.6, 9 and 10 as proprietors of the respondent No.6-borrower. As per the agency agreement, apart from stipulations requiring the respondent No.6 to abide by the directions issued by the DRT in the above quoted order dated 10th June 2025, it was agreed that the borrower shall pay an amount of Rs.50 lakhs on or before 22nd July 2025, without fail.

8. The petitioners submit that the respondent No.6 failed to abide by clause (c) of the above quoted order dated 10th June 2025 passed by the DRT. Instead of 5% of the demand notice amount i.e. Rs.23,15,098.72, the respondent No.6-borrower paid only an

amount of Rs.9 lakhs. The further amount stipulated in the agency agreement was also not paid. As a consequence, on 3rd July 2025, the petitioner No.1-bank was constrained to cancel the agency agreement and asked for the possession of the secured assets. Thereafter, further correspondence was exchanged between the parties and on 9th September 2025, the petitioners conveyed their without prejudice response to an offer made on behalf of the respondent No.6-borrower about repayment of the amount due. A perusal of the said documents shows that timeline was specified for payment of Rs.420 lakhs. It is an admitted position that the respondent No.6-borrower defaulted on the same and no payments were made. In this context, the petitioners were constrained to issue notice of contempt to the respondent No.6-borrower, but there was no response.

9. It is in the backdrop of the aforesaid chronology of events that the petitioners are constrained to file the present writ petition, seeking a direction for repossession of the secured assets and in that context, directions to the State Authorities to provide appropriate assistance.

10. Respondent No.6-borrower is unable to deny the contents of the documents filed with the writ petition. A perusal of the said documents is enough to show the repeated defaults committed by the respondent No.6-borrower and the manner in which it has taken undue advantage of unnecessary indulgence shown by the DRT in the order dated 10th June 2025. In such circumstances, we

are not inclined to grant any further time to the respondent No.6-borrower.

11. If Rule of law is to be respected, immediate appropriate directions are required to be issued to ensure that the possession of the secured assets is made over to petitioner No.1 (secured creditor).

12. In view of the above, we direct that respondent No.2-Naib Tahsildar, Daund, Pune shall fix the date of taking physical possession of the secured assets as 15th May 2026. The respondent No.6-borrower is already before this Court and therefore, there is no necessity of issuing any separate notice.

13. Respondent No.5-Senior Inspector of Police, Kurkumbh Police Station, Daund, Pune is directed to provide appropriate assistance to the respondent No.2-Naib Tahsildar, for executing the said directions of this Court. Necessary police force, including lady constables, shall be made available. The police shall use necessary, appropriate and reasonable force for taking physical possession of the secured assets and handing it over, on the same day, to the petitioner No.1 (secured creditor).

14. It is made clear that if the directions contained hereinabove are not complied with, the respondent No.2-Naib Tahsildar, Daund, Pune and respondent No.5-Senior Inspector of Police, Kurkumbh Police Station, Daund, Pune, shall remain personally present in this Court.

15. Needless to say, while executing the above stated directions, whosoever is in physical possession of the secured assets shall be dispossessed and the possession of the secured assets shall be made over to the petitioner No.1 (secured creditor). We also direct that the petitioner No.1 (secured creditor), at its own cost, shall ensure videography of the process of taking physical possession of the secured assets, for future reference, if required.

16. The respondent No.6-borrower shall remove all movables in the secured assets well before 15th May 2026.

17. List the petition under the caption 'for compliance' on 10th June 2026.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)