

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5225 OF 2026

Union Bank of India	.	Petitioner
	.	
vs.		
The State of Maharashtra and Others	.	Respondents
	.	

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SUBHASH
PAREKAR

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Mr. Nainesh Amin a/w. Ms. Priyam Amin i/b. Mr. N.N. Amin & Co., for
Petitioner.
Mr. B. V. Samant a/w. Smt. M.S. Bane, AGPs, for Respondent No.1/State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
DATE : 28th APRIL 2026.

PC.:

1. The Petitioner, Union Bank of India, a secured creditor is constrained to approach this Court, being aggrieved by the brazen acts of Respondent Nos. 5, 6 and 7 (the Borrowers), who have, in flagrant disregard and violation of the law, trespassed and re-occupied the secured assets (Flat), possession of which had been duly taken by the Petitioner by following due process of law. The Petitioner is also aggrieved by the failure and indifferent approach of Respondent No 4 to take effective action and steps in this context and failed to act as per the provisions of the Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 (SARFAESI Act, the said Act).

2. The Ld. Counsel for the Petitioner submitted that Respondent Nos. 5, 6 and 7 are the Borrowers who have defaulted in payment of the loan obtained by them, pursuant to which, on 31/05/2018 their account was classified as NPA. It is submitted by the Ld. Counsel for the Petitioner that on 02/06/2018, statutory notices under Section 13(2) of the said Act were issued by the Petitioner to Respondent Nos. 5, 6 and 7. As the Respondent Nos. 5, 6 and 7 failed to make the payments, on 24/09/2018, the Petitioner took symbolic possession of the said Flat under Section 13(4) of the said Act. It is further submitted that on 04/10/2022, the Petitioner filed an Application under Section 14 of the SARFAESI Act before the learned Court of the District Magistrate, Pune seeking directions to take physical possession of the mortgaged property. The District Magistrate, Pune vide order dated 17/10/2022, appointed Respondent No. 8 to take physical possession of the secured asset.

3. The Ld. Counsel for the Petitioner submitted that on 08/05/2025, the Respondent No. 8 handed over the Mortgaged Property to the authorized officers of the Petitioner and the Petitioner upon taking the possession affixed its lock and seal on the secured asset. It is further submitted by the Ld. Counsel for Petitioner that there was some deliberate issue created by the borrowers about Respondent No 6 being locked inside the said flat, which was

immediately sorted out by once again seeking assistance of Respondent No 4 and 8. The said Flat was thereafter once again locked, sealed and handed over to the Petitioner.

4. It is further submitted that on 29/05/2025, when the Petitioner visited the Mortgaged Property for verification, it was found that the Respondent Nos. 5, 6 and 7 had trespassed and illegally re-entered and re-occupied the said property. On 02/06/2025, the Petitioner lodged a complaint with the Office of Respondent No. 4. It is also submitted that Respondent No. 5 has filed a false and frivolous complaint under Section 175(3) of the Bharatiya Nyaya Sanhita before the learned JMFC, Pune against Respondent No 8, authorized officer, recovery agent and others.

5. The Ld. Counsel for the Petitioner further submits that on 11/02/2026, the Petitioner filed an Application before the Respondent No 8 seeking necessary orders and directions for restoration of possession of the secured asset and the Respondent No 8 had scheduled the matter for taking physical possession on 11/03/2026. The Ld. Counsel submitted that till date the possession has not been taken.

6. The Ld. Counsel for the Petitioner therefore submitted that the Respondent Nos. 5, 6 and 7 are occupying the said flat and the Petitioner, in absence of any support from Respondent No 4, who has even failed to register

FIR against the Respondent Nos 5,6,7, is unable to take back the possession of the secured asset (said flat). The Ld. Counsel for the Petitioner has also submitted that as the property is occupied by Respondent Nos. 5, 6 and 7, the entire purpose of the SARFAESI Act is frustrated and therefore submitted that appropriate directions be issued.

7. We find that the act of Respondent Nos. 5, 6 and 7 of re-entering the property in question after the Petitioner had taken lawful possession, is in complete defiance of the order passed by the learned Court of District Magistrate under Section 14 of the SARFAESI Act and therefore, to prevent further trampling of the Rule of Law at the hands of Respondent Nos. 5, 6 and 7, immediate and appropriate directions are required to be issued to curb the tendencies of such borrowers who show scant regard to the Rule of Law.

8. In view of the above, we direct respondent No. 8, the Additional Tahsildar, Pimpri-Chinchwad, Taluka Haveli, District Pune, to immediately take steps with the assistance of respondent No.4, the Sr. P. I., Dapodi police station to take the possession of the secured asset to be handed over to the Petitioner. The Respondent No 4 to provide appropriate police assistance to the Respondent No 8, who shall take physical possession of the secured assets on 11/05/2026. Needless to mention that Respondent No 4 shall ensure that adequate police force is provided which shall include lady constables as well.

The police shall use adequate, reasonable, proportionate and necessary force to take physical possession of the secured assets to be handed over to the petitioner (secured creditor) on 11/05/2026. If required, the police shall also video graph the entire process of taking possession and preserve the recording of the same.

9. It is made clear that, if the directions issued hereinabove are not complied with, the Sr. P.I. Dapodi Police Station shall personally remain present on the next date in this Court to give an explanation as to why the possession could not be taken on the specified date.

10. The Petitioner is at liberty to adopt appropriate remedy available under the law to pursue his prayer for directions to Respondent No 4 to register the FIR.

11. List under the caption of compliance on 10/06/2026.

(SHREERAM V. SHIRSAT, J)

(MANISH PITALE, J.)