

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5409 OF 2026

Mr. Vrajlal Hargovind and Ors. .. Petitioners
V/S.

Tamilnad Mercantile Bank Ltd., .. Respondent
Vashi Branch

Mr. Charles D'souza with Kruti Bhavsar and Pratik Barot, for Petitioners.
Mr. Farzana Murray i/by P Prabhakaran, for Respondent.

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

DATE : 21ST APRIL 2026.

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1. The petitioners (borrowers/mortgagers/guarantors) have approached this Court in this Writ Petition seeking urgent relief in the light of the physical possession of the secured asset sought to be taken by the respondent-Bank i.e. secured creditor, today at 1:00 p.m.
2. Learned counsel for the Petitioners submits that the notice dated 10/04/2026 issued by the Tahsildar in pursuance of the order passed by the Competent Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, does not give clear 15 days' notice, as the possession is slated to be taken today i.e. on the 11th day at 1:00p.m.
3. It is submitted that notice was served by hand on 17/04/2026

which was a Friday. Attention of this Court is invited to the notice dated 30/03/2026 issued by Assistant Registrar of Debts Recovery Tribunal - III, Mumbai (DRT-III) stating that all matters for inclusion in supplementary board for urgent hearing and expedited matter by way of praecipe or otherwise before the DRT-II, Mumbai shall be listed subject to filing service affidavit to all the respondents at least 72 hours prior to the date of the listing of the matter. It is submitted that service of notice on 17/04/2026 did not leave the petitioners with aforesaid mandatory period of 72 hours for even listing their interim applications before the DRT in the pending Securitisation Application. It is further submitted that the said notice by way of Registered Post A.D. was served yesterday i.e. on 20/04/2026 at about 10.12 a.m. informing that the possession would be taken today at 1:00p.m.

4. In these circumstances the petitioners have rushed to this Court further informing that Interim Application Nos. 1381 of 2026 (for amendment) and 1386 of 2026 (for stay) in pending Securitisation Application No. 171 of 2025 have already been filed before the DRT and in these circumstances, this Court may consider granting appropriate relief to the petitioners.

5. Since, the respondent - Bank was put to notice, the learned counsel representing the respondent- Bank is present in the Court, she submits that as per the notice, the respondent-Bank intends to take physical possession of the secured asset today at 1:00 p.m. It is submitted that the petitioners had sufficient time to approach the DRT for appropriate relief and having failed to do so, they are seeking urgent relief from this Court, which may not be granted.

6. We have considered the rival submissions, we find substance in the contention of the petitioners that the notice dated 10/04/2026 (Exhibit-A) issued by the Tahsildar itself is self-contradictory.

7. In the operative part of the notice, it is specifically stated that if possession of the secured asset is not handed over by the petitioners, forcible possession would be taken upon expiry of 15 days from the date of the notice. The period of 15 days would expire on 25/04/2026, yet in the copies marked to the police authorities, date for taking possession is fixed as today i.e. 21/04/2006 at 1:00pm. On this short ground, the notice appears to be unworkable and unsustainable.

8. The record also shows that the said notice was served by hand on 17/04/2026 at about 1:38 p.m. on the petitioners. The notice was served by Registered Post A.D. yesterday at about 10.12 a.m. and as noted hereinabove, the exercise of taking physical possession is fixed at 1:00 p.m today.

9. In this backdrop, perusal of the notice dated 30/03/2026 issued by Assistant Registrar of DRT-III, Mumbai does show that since the notice was served upon the petitioners only on 17/04/2026, it did not leave sufficient time for them to satisfy the requirements of the aforesaid procedural notice dated 30/03/2026 issued by the Assistant Registrar of DRT-III, Mumbai to enable them to voice their grievances in the aforesaid Interim Applications before the DRT.

10. Since the petitioners are facing threat of physical dispossession, they cannot be left remediless and the least they deserve is a consideration of their stand in respect of the said notice threatening physical

dispossession.

11. Since the petitioners have already filed aforementioned Interim Applications in the pending Securitisation applications before the DRT, it would be appropriate that the present Writ Petition is disposed of, so that the petitioners are given an opportunity for consideration of their Interim Applications.

12. In view of the above, the Writ Petition is disposed of with the following directions:

a) The exercise of taking physical possession of the secured asset in terms of the aforementioned notice dated 10/04/2026 shall stand deferred for one week from today.

b) The DRT-II, Incharge of matters before DRT-III is directed to take up Interim Applications Nos. 1381 of 2026 and 1386 of 2026 filed by the petitioners in Securitisation Application No. 171 of 2025 for consideration on 23/04/2026 in urgent category.

c) The DRT-II, Mumbai shall urgently pass appropriate orders on the said Interim Applications after hearing the respondent-Bank in the light of the fact this Court has deferred the exercise of taking physical possession of the secured asset only for a week from today.

13. This Court makes it clear the contentions of the rival parties have not been considered on merits in the hearing conducted today before

this Court.

14. All the questions, rights and contentions of the rival parties are kept open to be considered by the DRT-II, (Incharge of DRT-III Mumbai) in an appropriate manner.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)