IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6316 OF 2026

Kotak Mahindra Bank Ltd.,
Through Authorized Officer ... Petitioner
vs.
The State of Maharashtra and others ... Respondents

Mr. Sanjay Anabhawane, i/b. Ms. Medha Rane for petitioner.
Ms. M. S. Bane, AGP for respondents – State.

CORAM : MANISH PITALE &
FARHAN P. DUBASH, JJ
DATE : 07th MAY, 2026

P.C. :

. Heard learned counsel for the petitioner – bank (secured creditor).

2. The petitioner – bank is constrained to approach this Court in peculiar circumstances. This case is another illustration of how third parties frustrate the attempts of secured creditors in taking possession of secured assets and from taking further steps in the matter in accordance with law.

3. The petitioner – bank had invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act), in the context of a secured asset, which is a flat. The respondent Nos.3 and 4, being third parties in occupation of the secured asset, had filed Interim Application No.1183 of 2025 in a pending securitisation application bearing TSA No.340 of 2016, to resist the attempt of the petitioner – bank in taking physical possession of the said flat.

4. By a detailed order dated 21.05.2025, the Debts Recovery Tribunal-II, Mumbai (DRT) rejected the said interim application filed on behalf of respondent Nos.3 and 4. As a consequence, the petitioner – bank, in pursuance of an order passed by a competent Magistrate, took possession of the aforesaid flat on 22.05.2026. *Taaba paavti* and *panchanama*, both dated 22.05.2025, are annexed to the petition, demonstrating that the petitioner – bank took possession of the said flat in accordance with law.

5. Thereafter, on 01.06.2025, respondent Nos.3 and 4 sent a request letter to the petitioner – bank for permission to remove their articles, documents and other such items from the subject flat. In the said letter, they specifically undertook that they would not interrupt with the possession of the petitioner – bank. It appears that under the garb of removing their movables, the said respondents have put their lock on the said flat.

6. In the meanwhile, it appears that the petitioner – bank had put respondent Nos.5 and 6 – auction purchasers in possession of the subject flat. As a consequence, the said respondents were also obstructed from enjoying the possession thereof.

7. In this backdrop, the petitioner – bank caused an FIR No.125 of 2026 dated 06.03.2026 to be registered before Navghar Police Station, District Mira-Bhayandar, Vasai-Virar against respondent Nos.3 and 4 for offences under Sections 329(4), 126(2) and 351(2) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

8. Thereafter, the petitioner – bank has been pursuing the authorities for assistance in restoring possession of the subject flat. But, since respondent authorities failed to respond, the petitioner –

bank is constrained to approach this Court.

9. We have noticed a tendency amongst the borrowers and third parties to trespass into such secured assets, thereby frustrating the action taken by secured creditors, like the petitioner – bank herein, under the provisions of the Securitisation Act. The respondents – State authorities are expected to take prompt action to thwart such attempts made by borrowers and third parties. Failure on the part of the respondent authorities in taking prompt action violates the Rule of law.

10. We are of the opinion that in such circumstances, writ jurisdiction ought to be exercised to issue appropriate directions to restore the Rule of law and to ensure that borrowers/third parties do not blatantly undertake such illegal actions.

11. As noted hereinabove, the DRT rejected the application for interim reliefs filed on behalf of respondent Nos.3 and 4. The said order has attained finality and yet, the said respondents put their lock on the subject flat, thereby obstructing the auction purchasers from enjoying possession of the said flat. In view of the above, we are inclined to issue appropriate directions in the present petition.

12. Accordingly, we appoint following advocate as Advocate Commissioner. The details are as follows:

Name:	Mr. Prafull Chipte
Add:	86, Ground floor, Ashoka Shopping Centre, Near G. T. Hospital, L. T. Marg, Mumbai.
Email:	prafullchipte1397@gmail.com
Mob:	7021908088

13. The Advocate Commissioner shall take possession of the subject flat for handing it over to the petitioner – bank, who in turn, shall ensure that the same is handed over to respondent Nos.5 and 6 – auction purchasers. He shall fix the date as 15.05.2026 to take appropriate action for removing the lock put by respondent Nos.3 and 4 on the subject flat, for taking possession of the said flat and handing it over to the petitioner – bank. The fees of the Advocate Commissioner is fixed at ₹ 50,000, which shall be borne by the petitioner – bank.

14. The petitioner – bank shall deposit necessary charges for police assistance. The petitioner – bank shall conduct videography of the exercise of executing the directions of this Court for future reference, if required, at its own cost.

15. Respondent No.2 – Senior Inspector of Police, Navghar Police Station shall ensure that appropriate assistance is provided to the Advocate Commissioner, including providing sufficient police personnel along with lady constables, for executing directions issued by this Court. The police shall use appropriate, reasonable and necessary force for execution of the aforesaid directions.

16. We make it clear that in the event the aforesaid directions issued by this Court are not complied with, the Senior Inspector of Police, Navghar Police Station shall remain personally present in this Court on the next date of listing.

17. List under the caption 'for compliance' on 12.06.2026.

(FARHAN P. DUBASH, J.) **(MANISH PITALE, J.)**

Priya Kambli