



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION No.311/2026

Anjali W/o Kaushik Choudhary : **PETITIONER**
Age about 32 years,
Occupation : Household
Presently having no independent source
of income,
R/o Plot No. 35, Dupare Layout, Near
Rachana Madhukosh Apartment,
Swavalambi Nagar, Nagpur

VS.

1. State Bank of India, : **RESPONDENTS**
Through its Authorized Officer,
Home Loan Centre, Administrative
Officer, Sadar, Nagpur
2. Kaushik S/o Shankar Choudhary,
Age Major, Occupation : Business,
R/o Plot No. 21, South Ambazari Road,
Subhash Nagar, Nagpur

Mr. D.A. Dhumal, K.U. Motdhare, Advocate for the petitioner

Mr. Mr. Bhushan Mohata, Adv. for Respondent No.1

Mr. Aditya Bansod, Advocate for Respondent No.2

**CORAM: URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.**

DATED : 29.04.2026

ORAL JUDGMENT (PER : URMILA JOSHI PHALKE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. By this petition, the petitioner is seeking directions directing learned Sessions Court, Nagpur to decide Criminal M.A. No. 47/2026 and also seeking the directions to the respondent No.1 not to take any coercive steps as far as house property is concerned, which was attached under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short, SARFAESI Act).

3. The learned counsel for the petitioner submitted that the petitioner has preferred an application under the provisions of the Protection of Women from Domestic Violence Act and she was permitted to reside in a shared house, however, the respondent No.2 has left the matrimonial house and now it is brought to the notice that the house property wherein she is residing is also mortgaged with the respondent No.1. She submitted that if the respondent No.1 takes the possession of the house wherein she is residing then she will come on the street and therefore, the Sessions Court, Nagpur be directed to decide Criminal M.A. No. 47/2026 and in the meantime, the respondent No.1 Bank be directed not to act upon or execute the order dated 25.02.2026.

4. The learned counsel for the respondent No.1 present in response to the notice and he pointed out that the earlier order passed by this Court in Criminal Writ Petition No. 2880/2026, wherein also, similar issue was raised by the petitioner and this Court after hearing as well as

after taking into consideration the aspect that the petitioner approached to the learned Debts Recovery Tribunal, Nagpur by filing Securitisation Appeal, challenging the securitisation proceedings. This Court has further observed that in the light of the facts and circumstances, the Debts Recovery Tribunal, Nagpur to decide the aforesaid Interim Application No. 722/2026 in S.A. No. 74/2026, if possible, on 09.04.2026, and if not, for any unavoidable reason, within a period of 15 days from the date of order. The respondent No.1 Bank was also directed not to act upon the notice dated 02.04.2026, till the decision of the Debts Recovery Tribunal, Nagpur on the aforesaid Interim Application. The Court further in operative portion observed that if the aforesaid interim application is rejected by the learned Debts Recovery Tribunal, Nagpur then, the aforesaid interim order shall continue for another period of 15 days in order to enable the petitioner to challenge the same before the learned Debts Recovery Appellate Tribunal, Mumbai. With these directions, the earlier writ petition was disposed off.

5. The said interim application filed by the present petitioner was rejected on 09.04.2026, but till today, she has not preferred any appeal by challenging the said order of rejection of interim application before any Tribunal. Now, the respondent No.1 has taken steps for physical possession of the said property. It is submitted by the learned counsel for the respondent No.1 that as far as the maintainability of the writ petition is concerned, the Hon'ble Apex Court in the case of *South Indian Bank Limited and others Vs. Naveen Mathew Philip and another*,

reported in **(2023) 17 SCC 311**. The Hon'ble Apex Court after considering various earlier judgments and applied the law laid down by it by referring the judgment in the case of ***State Bank of Travancore Vs. Mathew K.C. (2018) 3 SCC 85***, observed, we are of the opinion that filing of the writ petition by the borrower before the High Court under Article 226 of the Constitution of India is abuse of process of the Court. The writ petitions have been filed against the proposed action than under Section 13(4) of the SARFAESI Act. As observed hereinabove, even assuming that the communication dated 13.08.2025 was notice under Section 13(4) of the SARFAESI Act, in that case, in view of the statutory remedy available by way of appeal under Section 17 of the SARFAESI Act, the High Court ought not to have entertained the writ petition. Even the impugned order is passed by the High Court directing to maintain status quo with respect to the possession of the secured properties on payment of Rs. 1 Crore (in all Rs.3 crores) is absolutely unjustifiable. The dues are to the extent of approximately Rs. 117 Crores. The ad interim relief has been continued since 2015 and the secured SARFAESI Act. In para 18 the Hon'ble Apex Court noted that while doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal.

6. In view of the above observations of the Hon'ble Apex Court the interim prayer of the petitioner for protecting her possession cannot be entertained. At the most, prayer of the petitioner to the extent of directions to the Sessions Court, Nagpur can be considered. Hence, we proceed to pass the following order.

ORDER

- I. The writ petition is partly allowed.
- II. The learned Sessions Court, Nagpur is directed to decide the Criminal M.A. No. 47/2026 within two weeks from today.
- III. The respondent No.1 shall consider the request of the petitioner of protecting possession only for one week only till she finds some alternate accommodation or rental accommodation. On failure of petitioner to avail alternate accommodation, respondent No.1 is at liberty to take appropriate steps to take possession of secured assets.

With this, the writ petition is disposed off. No order as to costs.

Rule accordingly.

(NIVEDITA P. MEHTA, J.)

(URMILA JOSHI PHALKE, J.)