



Assets and Enforcement of Security Interest Act, 2002 in accordance with law and the order passed by the competent Magistrate was duly executed for taking possession of the secured asset. But since the said property was encroached upon and trespassed by the borrowers, the petitioners were constrained to approach this Court by filing Writ Petition No.899 of 2025. On 14.08.2025, this Court passed an order which resulted in possession of the secured asset being taken on 20.09.2025. Shockingly, on 17.01.2026, again the borrowers trespassed into the property (secured asset).

5. It is brought to our notice that the petitioner approached the competent Magistrate for appropriate orders. But, the application is still pending. It is to be noted that this Court, in the case of *Nashik Merchant Co-operative Bank vs. The District Collector, Jalna and others* (judgement and order dated 28.02.2023 passed in Writ Petition No. 10069 of 2022), had specifically held that the Magistrate does not become *functus officio* and that the Magistrate can be approached again for repossession, in such cases. We are surprised that the competent Magistrate has kept the application pending without immediate appropriate orders.

6. Be that as it may, now that the date for taking physical possession of the secured asset is fixed as 23.04.2026, respondent No.3 – Resident Naib Tehsildar is directed to ensure that physical possession of the secured asset is made over to the petitioner on the said date. Respondent No.5 – Senior Inspector of Police, Sahkarnagar Police Station is directed to provide appropriate police assistance to respondent No.3, including providing lady constables. The police shall use reasonable, appropriate and necessary force to take physical possession and to hand over the same to the petitioner.

7. It is made clear that if the aforesaid directions are not followed, respondent Nos.3 and 5 shall remain personally present in this Court on the next date of listing.

8. The movable items, if any, found in the said property (secured asset) shall be removed and placed in a godown belonging to the petitioner (secured creditor). Thereupon, the petitioner shall inform the borrowers (respondent Nos.6 to 9), for them to collect the said movables.

9. In order to obviate any allegation about nature of movables found in the said property, it is directed that the petitioner, at its own cost, shall ensure videography of the action of taking physical possession of the property and shifting of the movables to the godown of the petitioner.

10. List for compliance on 27.04.2026

**(SHREERAM V. SHIRSAT, J.)**

**(MANISH PITALE, J.)**