IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13728 OF 2025

ICICI Home Finance Company ltd. and Anr	..	Petitioners
V/s.		
The State Of Maharashtra Thr the Honble District Magistrate, Pune and Ors	..	Respondents

WITH
WRIT PETITION NO. 16821 OF 2025

Dhanraj Manmath Tarde	..	Petitioner
V/s.		
ICICI Home Finance Co. Ltd Thru. Signatory and Ors	..	Respondents

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Mr. Charles De Souza, a/w Mr. Ajay Deshmane and Ms. Pragati Ghoti, i/b V. Deshpande and Co. for Petitioner in WP/13728/2025 and for Respondent No. 1 in WP/16821/2025.

Mr. Harshal Parab (through VC) for Petitioner in WP/16821/2025 and for Respondent No. 5 in WP/13728/2025.

Ms. Tanu N. Bhatia, AGP for Respondent Nos. 1 to 4 – State in WP/13728/2025.

Ms. G. R. Raghuwanshi, AGP for Respondent/State in WP/16821/2025.

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

DATE : 8th APRIL 2026.

PC:

1. These petitions are taken up together for the reason that in Writ Petition No. 13728 of 2025, the secured creditor is the Petitioner and in Writ

Petition No. 16821 of 2025, the borrower is the Petitioner with respect to the same loan facility.

2. The Petitioner Bank (secured creditor) has been constrained to file the present writ petition in the light of the secured asset being trespassed upon twice after the Petitioner Bank was able to take possession of the secured asset in pursuance of proceedings undertaken as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

3. It is the specific case of the Petitioner Bank that after possession was taken on the first occasion in pursuance of the order dated 29/07/2024 passed by the Competent Magistrate under Section 14 of the SARFAESI Act, on the very same day, i.e., 24/09/2024, there was a trespass upon the said property, i.e. the secured asset. In that light, the Petitioner Bank was constrained to further take action for securing possession of the secured asset. On the second occasion, possession was secured on 22/07/2025 and thereafter, on 10/08/2025, the Petitioner Bank was again dispossessed as there was a trespass upon the said property.

4. It is in this backdrop that the Petitioner Bank has been constrained to approach this Court seeking specific directions as against the Respondent State Authorities for appropriate assistance for taking possession of the secured asset. It is further brought to our notice that in pursuance of an

auction conducted in respect of the said property, the process culminated in issuance of a sale certificate dated 29/08/2025, in favour of the successful bidder. The Petitioner Bank desires to hand over physical possession of the said secured asset to the successful auction purchaser. The borrower, who is the Petitioner in the accompanying petition, was added as a Respondent to the petition filed by the Bank.

5. The learned counsel appearing for the borrower, i.e. the Petitioner in Writ Petition No. 16821 of 2025 submits that due to certain medical reasons, the Petitioner therein was unable to pursue remedies in respect of the action undertaken by the Bank. It is alleged that relevant documents were not made available to the Petitioner despite requests made to the Bank and authorities and therefore, the Petitioner (borrower) was unable to take recourse to appropriate remedies. In this backdrop, the writ petition has been filed before this Court, *inter alia*, seeking quashing of the sale certificate and also a direction for returning loan documents and personal belongings, etc. of the Petitioner (borrower).

6. We have considered the rival submissions and also the contentions raised on behalf of the Petitioner Bank (secured creditor) on the one hand and the Petitioner (borrower) in the accompanying petition on the other. We find that the Petitioner (borrower) has not been able to make out a case for entertaining the writ petition, for the reason that the petition does not

disclose sufficient reasons to treat this as an extraordinary case. The statutory remedy for the Petitioner (borrower) was to approach the Debt Recovery Tribunal (DRT) under the provisions of the SARFAESI Act. The Supreme Court in the case of ***United Bank of India v/s Satyawati Tondon and Ors*** [(2010) 8 SCC 110] and ***Celir LLP v/s Bafna Motors*** *[(2024) 2 SCC 1]* has repeatedly held that in the case of availability of such a statutory remedy, the High Court in writ jurisdiction ought not to entertain the writ petition.

7. In any case, we are not satisfied that the Petitioner (borrower) has been able to make good the submission made before this Court that he was deprived of taking recourse to the statutory remedy due to circumstances beyond his control.

8. In any case, it is not denied that the Petitioner (borrower) had defaulted in respect of the loan facility, resulting in action being undertaken by the Bank as per the provisions of the SARFAESI Act. The Petitioner (borrower) was clearly aware of the auction having been conducted and the sale certificate dated 29/08/2025 issued in favour of the auction purchaser. The notice dated 27/10/2025, issued on behalf of the Petitioner (borrower) specifically refers to the said sale certificate dated 29/08/2025, thereby indicating that the Petitioner had ample opportunity to take recourse to the statutory remedy, but he refused to do so and he has directly approached

this Court in writ jurisdiction. We find no reason to entertain the said writ petition and it deserves to be dismissed.

9. As regards the writ petition filed by the Petitioner Bank, we find that the material on record shows that on two occasions, the subject property has been trespassed despite the Petitioner Bank taking lawful recourse to the provisions of the SARFAESI Act. This is the third occasion on which the Petitioner Bank will have to take appropriate steps so as to put the auction purchaser in possession of the said property in respect of which the sale certificate has been already issued on 29/08/2025. We see no reason why the relief sought in the writ petition of the Petitioner Bank should not be granted. This is particularly in the backdrop of the Petitioner having caused an FIR to be registered in respect of the first instance of trespass and also having approached the senior inspector of the concerned police station on 12/08/2025.

10. In view of the above, the concerned Tahsildar, i.e. Resident Tahsildar, Haveli Pune, is directed to fix the date of taking possession on 27th April 2026 for taking physical possession of the secured asset and handing it over to the Petitioner Bank. The Respondent No. 4 Senior Inspector, Sinhagad Road Police Station, Pune, shall provide assistance to the Tahsildar. Adequate police force, including lady constables, shall be made available. The police force shall use reasonable, adequate and necessary force for

taking physical possession of the secured asset and handing it over to the Petitioner Bank on the aforesaid date.

11. It is made clear that in the event that the directions given hereinabove are not complied with, the Tahsildar, Haveli, Pune and the Senior Inspector of Sinhagad Road Police Station, Pune, shall remain personally present in this Court on the next date of listing.

12. In view of the above, Writ Petition No. 13728 of 2025 is allowed in the above terms and Writ Petition No. 16821 of 2025 is dismissed.

13. List under the caption "For Compliance" on 30th April 2026.

14. Needless to say, the Petitioner (borrower) is at liberty to approach the said Bank for copies of relevant documents, which the Bank shall provide within a reasonable time.

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