

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 17534 OF 2025

Gayatridevi Chandraprakash Tiwari ...Petitioner
Versus
State of Maharashtra Thru. G P And Ors. ...Respondents

Mr. Charles De Souza a/w Mr. Rupak Sawangikar, Ms. Pragati Gothi and
Ms. Anaaya Dalvie i/b. Meraki Chambers, for the Petitioner.
Smt. Ashiwini A. Purav, AGP for the Respondent Nos.1 and 3 - State.

**CORAM : R. I. CHAGLA AND
ADVAIT M. SETHNA, JJ.**

DATED : 8TH JANUARY, 2026

P.C.:-

1. By this Writ Petition the Petitioner is seeking cancellation of the Certificate of Sale registered on 16 November 2022 before Respondent No.3 and which Certificate of Sale has been issued to the Petitioner. Further prayers sought for are refund to the Petitioner of the sale consideration along with interest at 12% p.a. from 18 October 2022 till payment and/or realization and for a direction to Respondent No.2 to refund stamp duty and registration charges incurred by the Petitioner in respect of certificate of sale registered on 16 November 2022 along with interest till payment and/or realization.

2. Mr. De Souza, learned counsel appearing for the Petitioner has referred to the Sale Certificate dated 16 November 2022 wherein at clause

3 it is recorded that the Bank has initiated the process of taking the physical possession of the said subject property from the borrower under Section 14 of the SARFAESI Act. The necessary directions/order to that effect has been passed by the District Magistrate and the execution of the same by the respective Tehsil Office is under process. It is further recorded that the Bank will hand over the physical possession of the schedule property in favour of the Auction Purchaser through the due process of law.

3. Mr. De Souza has submitted that despite the afore-mentioned clause in the Sale Certificate, Respondent No.2 – Bank failed to take physical possession of the subject property and hand over the same to the Auction Purchaser. He has submitted that thereafter sometime in the year 2024, Respondent No.4 to 6 - Borrower have demolished the subject property. This is apparent from the photographs showing the subject property pre-demolition at **Exh – V** (page 101 to 104) and the position post-demolition at **Exh-W** (pages 105 to 110 of the Petition). He has submitted that in view of the demolition of the subject property, the Petitioner - Auction Purchaser seeks refund of the sale consideration along with stamp duty and registration charges which have been incurred by the Petitioner and for cancellation of the sale certificate as prayed for in this Petition.

4. Mr. De Souza has sought time to serve the Respondent by way of private service.

5. The Petitioner shall serve the Respondents by way of private service

and file an affidavit of service prior to the next date.

6. Issue Notice to the Respondents, returnable on 19 January 2026 for Hearing of the Petition at the Admission stage.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]