

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2839 OF 2026

Kotak Mahindra Bank Ltd .. Petitioner
V/s.
State Of Maharashtra and Ors .. Respondents

Mr. Sanjay Anubhawane i/by Medha Rane, for Petitioner.

Ms. Pooja Patil, AGP, for Respondent No. 1/State.

Mr. J.S. Jamkhandi, for intervenor.

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

DATE : 24TH MARCH 2026.

PC:

1. In this Petition, the Petitioner Bank (secured creditor) is constrained to knock the doors of this Court invoking writ jurisdiction for ensuring that order passed by the Respondent No. 2 - competent Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is duly executed.

2. In the present case, the order was passed by Respondent No. 2 - competent Magistrate as far back as 03/03/2010. This Petition was earlier listed before this Court when it was informed that the date for taking physical possession was fixed as 13/03/2026.

3. Learned counsel for the Petitioner has tendered an additional affidavit along with documents. The same is taken on record.

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4. In the additional affidavit, it has been explained in detail as to how physical possession of the secured asset could not be taken on 13/03/2026 and also on 20/03/2026. It is alleged that although Respondent No.3 - Tahsildar cannot sub-delegate the authority, but in the present case it appears that the Circle Officer is taking steps for execution of the order passed by the competent Magistrate.

5. It is specifically alleged that the Circle Officer, despite availability of police force, has not utilised the same for taking physical possession of the secured asset. It appears that the Circle Officer is under an impression that those persons who are occupying the secured asset are required to be further heard in the matter.

6. This is completely against the position of law, which stipulates that even the competent Magistrate performs only a ministerial act and nothing beyond that while passing the orders under Section 14 of the Securitisation Act.

7. This has been amply clarified by the Supreme Court in its judgments in the cases of '**NKGSB Cooperative Bank Limited vs Subir Chakravarty**'¹ and '**Balkrishna Rama Tarle Dead Through Lrs vs Phoenix Arc Private Limited**'.² Thus there is no question of the Circle Officer indulging any such activities.

8. In a recent order dated 16/03/2026, in the context of order passed by the competent Magistrate under Section 14 of the Securitisation Act, in a similar situation, the Supreme Court in the case of '**M/s India Infoline Home Finance Limited Vs. Nageswara Rao Perikala and Ors.**'³ was constrained to observe as follows:

1 2022 (10) SCC 286

2 2022 (1) SCC 662

3 Arising from Special Leave Petition (C) No.26160 of 2025.

"10. We have considered the submissions made by learned senior counsel for the appellant and have perused the record. Section 14 of the Act enables secured creditors to approach the CJM or the District Magistrate for obtaining possession of a secured asset. The second proviso to Section 14(10) requires the CJM to pass suitable orders for the purpose of taking possession of the secured asset within a period of thirty days from the date of the application. Section 14(20) of the Act empowers the CJM or the District Magistrate to take steps, or cause such steps to be taken, and to use or cause to be used such force as may, in his opinion, be necessary. The CJM is under a statutory obligation to ensure that the warrant of possession is executed, and the secured creditor is not required to run from pillar to post. The inability to take possession within the prescribed time-limit does not render the District Magistrate functus officio. The secured creditor has no control over the District Magistrate, who exercises jurisdiction under Section 14 of the Act for public good in order to facilitate recovery of public dues. Therefore, Section 14 of the Act cannot be interpreted literally without considering the object and purpose of the Act".

9. In any case, it is the responsibility of Respondent No. 3-Tahsildar to ensure that the orders passed by the competent Magistrate under Section 14 of the Securitisation Act, are duly executed.

10. In view of the repeated failures on the part of Respondent Nos. 3 and 4 to effectively execute the said order, specific directions are warranted in this Petition.

11. Accordingly, we direct that the Respondent No.3 - Tahsildar shall now fix the date of taking physical possession of the secured asset as 2nd April 2026.

12. Respondent No.3-Tahsildar shall ensure that physical possession of the secured asset is taken on the said date with the assistance of Respondent No. 4 i.e. Senior Inspector of Police, Badlapur (West) Police Station. Respondent No. 4 - Senior Inspector of Police, Badlapur (West) Police Station shall provide sufficient police force including lady constables for assisting Respondent No.3 - Tahsildar in executing the said order.

13. It is made clear that Respondent Nos. 3 and 4 shall use reasonable, proportionate and necessary force to take physical possession in the case of any obstructions.

14. Respondent No.3-Tahsildar is directed to personally execute the said order of the competent Magistrate in the aforesaid manner.

15. It is made clear that if the directions issued herein above are not complied with, Respondent No.3-Tahsildar, Ambernath and Respondent No-4, Badlapur Police Station shall remain personally present in this Court on the next date of listing.

16. List for further direction /consideration on 6th April 2026, 'High on Board'.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)