



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 16258 OF 2026

ARKA Fincap Limited  
V/s.

... Petitioner

State of Maharashtra & Ors.

... Respondents

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Ms. Priya Nigwekar i/b. Pallavi Chari for the Petitioner  
Mr. Manish Upadhye, AGP for Respondent - State

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CORAM : MANISH PITALE AND  
FARHAN P. DUBASH, JJ.

DATE : 8<sup>th</sup> MAY 2026

P.C. :

1. Heard the learned Counsel for the Petitioner.
2. The Petitioner is a Secured Creditor. This Petition alleges that Respondent nos. 3 to 5 (**borrowers**) have trespassed into the subject property (**secured assets**) after the Petitioner had taken physical possession of the same in accordance with law under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as **SARFAESI Act**).
3. The documents filed along with the Petition show that on 3<sup>rd</sup> November 2025, the Additional Chief Judicial Magistrate, Esplanade, Mumbai passed an order under Section 14 of the SARFAESI Act appointing



Respondent no.2 as the Court Commissioner for taking physical possession of the said secured assets i.e. Flat nos.2202 and 2203 in 'A' Wing of building known as Lotus Presidency at Oshiwara, Goregaon, Mumbai.

4. The said order of the Magistrate was executed and possession of the subject property was taken on 12<sup>th</sup> February 2026.

5. Thereafter, Respondent nos. 3 to 5 approached the Debt Recovery Tribunal-II, Mumbai (**DRT-II**) by filing Securitization Application no. 53 of 2026, wherein they also filed an Interlocutory Application bearing no. 422 of 2026 seeking Interim reliefs. By an order dated 17<sup>th</sup> February 2026, the DRT-II, Mumbai rejected the said Applications.

6. Thereupon, the Petitioner proceeded to issue auction notice for sale of the said secured assets (flats). In the meanwhile, Respondent nos. 3 to 5 trespassed into the said flats.

7. In that context, on 30<sup>th</sup> March 2026, the Petitioner lodged a complaint with the Police Inspector, Goregaon Police Station, Mumbai. A copy of the complaint is annexed at Exhibit – J. In that context, on 15<sup>th</sup> April 2026, the Assistant Police Inspector of the aforesaid Police Station recorded a statement of the representative of the Petitioner. Till date, possession of the said secured assets has not been restored with the Petitioner (secured creditor) and in this backdrop the Petitioner is constrained to approach this Court to



seek appropriate directions in the matter.

8. The Petitioner relies upon an order dated 3<sup>rd</sup> September 2024 passed by a Division Bench of this Court in *ICICI Home Finance Company Ltd. And Anr. vs. The State of Maharashtra & Ors.*<sup>1</sup>, wherein, in similar circumstances, this Court had specifically directed such trespassers to be removed forthwith and for physical possession of the secured assets being handed over to the secured creditor therein.

9. We have considered the documents on record.

10. We have noticed this disturbing trend of secured creditors being harassed by the borrowers by trespassing into properties that form secured assets, after the physical possession of the secured assets is taken by the secured creditors. In such situations, despite a police complaint being lodged immediately by the secured creditors, the police is generally slow in responding, due to which such trespassers are encouraged to indulge in such activities. This is a complete violation of Rule of law, which cannot be tolerated. Therefore, this Court deems it fit to issue appropriate directions that are required to be complied forthwith.

11. At this stage, the learned Counsel for the Petitioner seeks permission to amend the Writ Petition to add the Senior Police Inspector of Goregaon

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1. Writ Petition no.12040 of 2024



Police Station, Mumbai, as Respondent no.6 in the Writ Petition. In the interest of justice, leave is granted to carry out such amendment. The amendment shall be carried out forthwith. Reverification dispensed with.

12. In view of the above, we direct Respondent no.2 – Court Commissioner to take physical possession of the aforesaid secured assets on 18<sup>th</sup> May 2026. The Respondent no.6 – Senior Police Inspector of Goregaon Police Station, Mumbai shall provide adequate Police Personnel along with a lady constable to assist Respondent no.2 – Court Commissioner to execute the aforementioned directions. The police personnel shall ensure that the possession of the secured assets is handed over on the very same day to the Petitioner..

13. It is made clear that in the event, the aforesaid directions issued by this Court are not complied with, the Senior Police Inspector of Goregaon Police Station, Mumbai shall remain personally present in this Court on the next date of listing.

14. List the Petition on **15<sup>th</sup> June 2026** under the caption **“For Compliance”**.

( FARHAN P. DUBASH, J. )

( MANISH PITALE, J. )