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

WRIT PETITION NO. 7547 OF 2026 (A.S.)

Kotak Mahindra Bank Limited ...Petitioner
Versus
State of Maharashtra and Others ...Respondents

WITH
CONTEMPT PETITION (L) NO. 35329 OF 2025 (O.S.)
WITH
INTERIM APPLICATION NO. 28679 OF 2025
WITH
INTERIM APPLICATION (L) NO. 4872 OF 2026
IN
WRIT PETITION NO. 4960 OF 2025

VISHAL
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Reshma Bhavesh Shah ...Petitioner
Versus
Board of Directors of Kotak Mahindra
Bank Limited and Another ...Respondents

Mr. Mathews Nedumpara a/w. Ms. Hemali Kurne and Mr. Dayanand Hebballi, for the Petitioner in Contempt Petition (L) No. 35329 of 2025 and for Respondent No. 2 in WP No. 7547 of 2026.

Mr. Sanjay Anabhawane i/b. Ms. Medha Rane, for the Petitioner in WP No. 7547 of 2026 and for Respondent Nos. 1 and 2 in Contempt Petition (L) No. 35329 of 2025.

Ms. Fatima Lakdawalla, AGP for Respondent Nos. 9 and 10 in Contempt Petition (L) No. 35329 of 2025.

Mr. Oduvil Mohandas a/w. Ms. Farah Broacha and Mr. J.P. Kapadia i/b. Little & Co., for Respondent No. 11- RBI in Contempt Petition (L) No. 35329 of 2025.

Smt. Tanu Bhatia, AGP for Respondent No. 1 and 3 in WP No. 7547 of 2026.

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

**RESERVED ON : 17th JULY, 2026
PRONOUNCED ON : 21st AUGUST, 2026**

ORDER: *(Per Shreeram V. Shirsat, J.)*

1. Heard Mr. Sanjay Anabhawane, learned counsel for the Petitioner in Writ Petition No. 7547 of 2026 and for Respondent Nos. 1 and 2 in Contempt Petition (L) No. 35329 of 2025; Mr. Mathews Nedumpara, the learned counsel for the Contempt Petitioner in Contempt Petition (L) No. 35329 of 2025 with Interim Applications No. 4872 of 2026 and for Respondent No. 2 in Writ Petition No. 7547 of 2026.

2. Since the issue involved in the Writ Petition No. 7547 of 2026 and Contempt Petition (L) No. 35329 of 2025 alongwith Interim Applications are arising out of the same factual matrix, both are being disposed of by a common order.

3. We have gone through the Writ Petition, affidavit in reply filed by the Respondent No 2 in the writ petition, the Contempt Petition, the reply filed by the bank in the Contempt Petition, Interim Applications and the documents annexed along with it. We find that this case has a chequered history and therefore before proceeding to decide both the

Petitions, it will be necessary to briefly narrate the facts of the case and the sequence of events that have transpired so far.

4. The Petitioner in Writ Petition No. 7547 of 2026 is a secured creditor, an assignee of ICICI Bank (the Assignor Bank), by virtue of a Deed of Assignment dated 31st December 2007. The Assignor Bank had granted credit facility to Mr. Irshad Ansari and Mrs. Asiya Ansari (Original Borrowers). The borrowers had executed loan agreement by executing various loan security documents. In consideration of the said credit facility sanctioned by the Assignor Bank of the Petitioner, the Original Borrowers created a security interest over the secured asset, namely Flat No. 701, 'B' Wing, 7th Floor, Golden Eagle Complex Co-operative Housing Society Limited, by way of equitable mortgage by deposit of title deeds, and deposited all the original title deeds of the secured asset with the Assignor Bank of the Petitioner. As the Original Borrowers failed to repay the loan, the account of the Original Borrowers was classified as Non-Performing Asset (NPA) and measures under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the Act, 2002) were initiated. A Demand Notice under Section 13(2) was issued on 25th June, 2009. As the Original Borrowers failed to comply with the

Demand Notice, the Petitioner initiated further measures under Section 13(4) of the Act, 2002. The Petitioner also initiated the process under Section 14 of the Act, 2002 and the District Magistrate, Thane, vide order dated 3rd March 2010, directed the Tahsildar, Mira-Bhayandar, Thane, with the assistance of Senior Inspector of Police, to take the physical possession of the secured asset. However Respondent No. 3 i.e. the Senior Inspector of Police, Naupada Police Station, Thane failed to take the possession of the secured asset.

5. The learned Counsel for the Petitioner in the Writ Petition No. 7547 of 2026, submitted that in the year 2014, the Respondent No. 2 in the Writ Petition No. 7547 of 2026 filed a Securitisation Application before the Debt Recovery Tribunal-III, Mumbai (DRT). The learned Counsel further submitted that as there was no stay from the Tribunal or from any Court, the Petitioner approached the Tahsildar Office for execution of the said order. However, the Tahsildar, Thane failed to execute the order. The Petitioner therefore filed a Civil Writ Petition bearing No. 2144 of 2023, seeking directions to expeditiously execute order dated 3rd March 2010. The Writ Petition bearing No. 2144 of 2023 was disposed of by this Court vide order dated 22nd February 2023, by observing that the grievance of the Petitioner was already redressed by

this Court in Writ Petition No. 15285 of 2022 (L & T Finance Limited vs. State of Maharashtra). The learned Counsel for the Petitioner further submitted that as per the directions passed by this Court in the Writ Petition No. 15285 of 2022, the Petitioner immediately addressed a letter on 24th October 2024 to the Tahsildar of Mira-Bhayandar and requested to grant administrative assistance for taking possession of the secured asset. Even on this occasion, the Tahsildar and Respondent No. 3 failed to redress the grievance of the Petitioner and insisted for a new order to fix a date for taking possession by citing a reason that the old order given to the office was misplaced. The learned Counsel further submitted that he obtained a certified copy of the order and submitted the same to the office of the Tahsildar, after which the date for taking physical possession of secured asset was fixed on 22nd May 2025. The intimation about taking of physical possession was communicated to all the parties, and despite receipt of sufficient notice of possession, there was no challenge to this order by any of the parties.

6. The learned Counsel further submitted that the Petitioner arranged for police protection and along with the Tahsildar, proceeded at the site to take physical possession of the secured asset. However, due to the obstruction created by Respondent No. 2 and her husband, the

possession could not be taken. It is the grievance of the Petitioner that the Tahsildar and the Respondent No. 3 failed to put in sufficient efforts to take possession from the Respondent No 2 and on the contrary, informed the officials of the Petitioner to remove the Respondent No. 2 from the secured asset. The learned Counsel submitted that the Respondent No. 3, for reasons best known, probably yielding under political influence, failed to take any steps to either remove the Respondent No. 2 and other occupants or register FIR against Respondent No. 2. Learned Counsel submitted that due to obstruction created, further process of taking possession was abandoned.

7. The learned Counsel further submitted that even thereafter, several attempts were made by the Petitioner to persuade the Tahsildar and Respondent No. 3 to take the possession from Respondent No. 2. However, every time the Tahsildar and Respondent No. 3 visited the place, they would back out from the process upon Respondent No. 2 creating obstructions. The learned Counsel for the Petitioner submitted that, although it was within the means and powers of Respondent No. 3 to forcibly remove the Respondent No. 2, the Respondent No. 3 refused to use police force for vacating Respondent No. 2 and the others who were occupying the secured asset.

8. The learned Counsel for the Petitioner further submitted that aggrieved by the repeated unsuccessful attempts made to execute the orders, which were being frustrated by the Respondent No. 2, the Petitioner was once again constrained to approach this Court, seeking directions to comply with the order dated 3rd March 2010. This Court, vide order dated 14th July 2025, directed the Tahsildar and Respondent No. 3 to execute the order passed under Section 14 of the Act, 2002 within a period of eight weeks. The learned Counsel for the Petitioner further submits that pursuant to the directions given by this Court, the possession was scheduled on 22nd May 2025. However, once again, the possession could not be taken due to the obstructions created by Respondent No. 2 and her family members.

9. The learned Counsel further submitted that thereafter a fresh attempt to take possession was made on 23rd September 2025. However, Respondent No. 2 once again obstructed the process and created hurdles, including locking the outside metal door from inside and compelling the authorities to initiate forced entry by cutting the outer door. In the meanwhile, the Respondent No. 2 approached this Court at 5.30 pm, without giving notice to the Petitioner, contending that the possession was being taken by the Petitioner in pursuance of the order

passed by the District Magistrate under Section 14 of the Act, 2002. This Court (*Coram: B P Colabawalla and Amit Jamsandekar, JJ.*) adjourned the matter to 24th September 2025, as the matter was mentioned at 5:30 pm and none on the behalf of the Petitioner bank was present. This Court also directed that the possession of the suit property should not be taken and the matter was adjourned to 24th of September 2025.

10. The learned Counsel submitted that on 24th September 2025, when the petition was called out for hearing, the Counsel appearing for the Petitioner Bank objected to grant of any reliefs and informed the Court that the Respondent No. 2 had already approached the DRT under Section 17 of Act, 2002 challenging the measures taken by the Petitioner Bank under Section 13(4) of the Act, 2002 and that there is equally efficacious alternate remedy available to them and requested for dismissing the Writ Petition No. 23102 of 2025. In the said order dated 24th September 2025, the learned Counsel appearing on behalf of Respondent No. 2 agreed and which has been recorded in the said order, that since the Respondent No. 2 (Petitioner in that petition) had already filed a Securitisation Application before the DRT, the Respondent No. 2 would raise all contentions including the ones raised in the Writ Petition (other than constitutional validity of Section 14 of

the Act, 2002) before the DRT. The learned Counsel further submitted that after hearing the parties, this Court was of the opinion that the Respondent No. 2 herein ought to exhaust her alternate remedy under Section 17 of the Act, 2002, which the Respondent No. 2 had already invoked. The Ld. Counsel further submitted that the submission of the learned Counsel for the Petitioner Bank was that since the possession was not taken, a fresh notice would be issued by the Bank to Respondent No. 2 before they proceed to take the physical possession of the suit property. On the basis of this statement, this Court was of the opinion that there was no immediate threat to the Respondent No. 2 of being ousted from possession and therefore directed that the Bank shall give at least seven days notice to the Respondent No. 2 (Petitioner therein) before proceeding to take physical possession of the suit property. It was also fairly submitted by the learned Counsel for the Respondent No. 2 that in the event the DRT does not grant the Petitioner any interim relief from being dispossessed from the suit property, subject to the Petitioner's right of appeal, the Petitioner shall not obstruct the Bank from taking physical possession and this statement was accepted as an undertaking to the Court. The Paragraphs 7 and 8 are reproduced herein below for appropriate reference:

7] Mr. Soman, the learned Advocate appearing for the 1st Respondent Bank, has stated that since possession was not taken yesterday, a fresh notice would be issued by the 1st Respondent Bank to the Petitioner before they proceed to take physical possession of the Suit Property. Since this statement is made, we do not find any immediate threat to the Petitioner of being ousted from possession. We only direct that the 1st Respondent shall give at least 7 days notice to the Petitioner before proceeding to take physical possession of the Suit Property.

8] Mr. Nedumpara, in all fairness, has stated that in the event the DRT does not grant the Petitioner any interim relief from being dispossessed from the Suit Property, subject to the Petitioner's right of appeal, the Petitioner shall not obstruct the 1st Respondent Bank from taking physical possession of the Suit Property. We accept the aforesaid statement as an undertaking given to the Court.

11. On the basis of the aforementioned submissions, the Writ Petition came to be disposed of, and Respondent No. 2 (Petitioner therein) was relegated to raise her issues in the Securitisation Application already filed before the DRT.

12. The learned Counsel for the Petitioner further submitted that despite the order dated 24th September 2025 and the undertaking given, Respondent No. 2, once again filed a fresh Writ Petition bearing Writ Petition (L) No. 32773 of 2025 on similar grounds, in addition contending that the possession notice dated 7/10/2025 indicates that the possession will be taken on 13/10/2025 and therefore directions be given to the DRT to expeditiously hear the Interlocutory Application No. 3025 of 2025 filed in Securitisation Application No. 185 of 2016 for ad-

interim relief. This Court vide order dated 10/10/2025 disposed of the petition by giving the following directions:

1. Though the above Writ Petition is filed seeking various reliefs, Mr. Nedumpara, the learned counsel appearing on behalf of the Petitioner brought to our attention the Order dated 24th September, 2025 passed in Writ Petition (L) No.23102 of 2025. He submitted that in that Writ Petition filed by this very Petitioner, an Order was passed whereby the Petitioner was relegated to raise her grievances in the Securitisation Application already filed by her before the DRT and the Petitioner could apply to the DRT for seeking appropriate interim reliefs. He submitted that in the said order, it was also recorded that before physical possession of the suit property is taken, the 1st Respondent would give at least 7 days notice to the Petitioner. He submitted that in pursuance to the directions passed by this Court in Order dated 24th September, 2025, the Petitioner filed a praecipe on 3rd October 2025 before the DRT-I (I/c. for DRT III). The said praecipe was not accepted by the DRT-I (I/c. DRT-III). It appears that now physical possession would be taken on 13th October, 2025, as per the notice issued by the office of the Tahsildar dated 7th October, 2025. It is for this reason, that Mr. Nedumpara states and submits that the DRT be directed to hear the Interlocutory Application (Diary) No.3025 of 2025 in Securitisation Application No.185 of 2016 on Monday for ad-interim relief.

2. The learned advocate appearing on behalf of the 1st Respondent – Bank stated that the DRT-III is the DRT, which will have jurisdiction to decide, not only the Securitisation Application filed by the Petitioner, but also any Interlocutory Application filed therein. He submitted that the DRT-III will be available on Monday i.e. 13th October, 2025.

3. Considering these facts and circumstances, we direct that the Petitioner shall file a praecipe before the DRT-III on Monday i.e. on 13th October, 2025 requesting it to take up Interlocutory Application (Diary) NO.3025 of 2025 in Securitisation Application No.185 of 2016. If such a praecipe is filed, the DRT-III is directed to hear Interlocutory Application (Diary) No.3025 of 2025, at least for ad-interim relief.

4. It is needless to clarify that if any of the parties are aggrieved by the order passed by the DRT-III in Interlocutory Application (Diary) No.3025 of 2025, they are always free to challenge the said order before the Hon'ble DRAT under Section 18 of the

SARFAESI Act, 2002.

5. The Writ Petition is accordingly disposed of in the aforesaid terms. No order as to costs.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

13. The learned Counsel for the Petitioner submitted that the possession was slated on 13th October 2025, as per the notice issued by the Tahsildar, Mira-Bhayandar. The learned Counsel further submitted that the Debt Recovery Tribunal-III at Mumbai heard the Respondent No. 2 and came to a conclusion that the matter could only be decided by the competent Civil Court, since the issue involved was with respect to the title of the secured property. The Interim Application was disposed of by DRT-III.

14. The learned Counsel for the Petitioner submitted that it will be pertinent to note here that even at this stage, the Respondent No. 2 had not raised any grievance about the taking of physical possession on 13th October 2025 pursuant to the notice dated 7th October 2025, and what was only prayed was that the DRT be directed to hear the application for ad-interim relief.

15. The learned Counsel further submitted that on 13th October 2025,

the possession of the secured asset was taken. The learned Counsel further submitted that the Respondent No. 2 once again moved Writ Petition No. 32773 of 2025 and informed the Court that possession of suit flat was taken by the Petitioner Bank on 13th October, 2025 and that the premises are no longer in the possession of Respondent No. 2. However, fervently requested that the Respondent No. 2 has her belongings in the said suit flat and that the authorized officer of the Bank be directed to open the suit flat and hand over the belongings to Respondent No. 2.

16. This Court, considering the request to be a fair and reasonable one, directed the authorized officer of the Bank to open the suit flat on the next day and permit Respondent No. 2 to take away her belongings, and also directed that once the belongings of Respondent No. 2 are taken by her, the suit flat shall again be locked by the authorized officers of the Bank so that the physical possession of the suit flat continues to remain with the Bank, subject to any orders passed by the DRAT, if approached, by Respondent No. 2 challenging the order dated 13th October 2025 passed in Interlocutory Application No. 3025 of 2025. It was also specifically noted by this Court that the Respondent No. 2 had undertaken to this Court that she will enter the suit flat only for the

purpose of removing her belongings and thereafter exit the same and enable the Bank to once again lock the suit flat. The said undertaking given by Respondent No. 2 was accepted by the Court and it was observed that any breach of this undertaking will amount to contempt and that this Court shall not hesitate to send her to jail for breaching the said undertaking. The relevant observation is as under :

“To allay any apprehension on the part of the Respondent-Bank, the Petitioner has undertaken to this court that she will enter the Suit Flat only for the purpose of removing her belongings and thereafter exit the same in order to enable the respondent-Bank to once again lock the suit flat. They said undertaking, given by the petitioner, is accepted by the court. We make it clear to the petitioner that any breach of this undertaking will amount to contempt, and we shall not hesitate to send her to jail for breaching the said undertaking.”

17. The learned Counsel for the Petitioner further submitted that the Petitioner herein had filed an Interim Application (L) No. 7241 of 2026 in Writ Petition 4960 of 2025 to contend that despite the Respondent No. 2 having been permitted only to take her belongings, she has failed to do so and her belongings continue to remain in the said flat, which is creating hurdles for the Petitioner bank to deal with the property in accordance with the provisions of Securitisation Act for taking further steps of auction sale, etc. This Court was of the opinion that the Petitioner Bank could have filed a substantive petition to seek the said

reliefs instead of filing the Interlocutory Application in a disposed-of Petition, and that too in a Writ Petition which had nothing to do with the said aspect of Respondent No. 2 taking away her articles from the said flat. The Petitioner Bank was permitted to withdraw the application with a liberty to file a fresh petition for the relief sought in the instant application.

18. The Petitioner has thus filed the present Petition seeking directions for effective execution of the order dated 03/03/2010, compliance of order dated 15/10/2025 by removal of the entire belongings and movable assets and other consequential reliefs such as directions for police assistance etc. The Respondent No. 2 has filed a detailed reply to the writ petition.

19. In the interregnum, the Respondent No. 2 (hereinafter referred to as Contempt Petitioner) has filed a Contempt Petition (L) No. 35329 of 2025 against several respondents including Board of Directors of Kotak Mahindra Bank Ltd, Board of directors of ICICI Bank Home Finance, Tahsildar, Mira-Bhayandar, Senior Inspector of Police, Navghar Police station and other private respondents contending that there was a willful disobedience of the order of this Court passed on 24th September 2025 in Writ Petition No. 13323 of 2025 by Respondent No. 1 and 9.

20. According to the Contempt Petitioner, this Court, vide order dated 24th September 2025, had disposed of the petition by issuing direction that the first Respondent No. 1 (Bank) shall give at least seven days notice to the Contempt Petitioner before proceeding to take physical possession of the suit property and despite such direction, the notice dated 7th October 2025 which was issued by the Respondent No. 9-Tahsildar to take possession mentioned the date as 13th October 2025, which was before the expiry of seven days period and therefore possession could not have been taken on 13th October 2025, but it could have been taken only on 14th October 2025 or thereafter. The Contempt Petitioner submitted that she was able to retrieve some personal belongings, home appliances, and furniture to some extent on 16th October 2025.

21. It was further contended by the Ld. Counsel for the Contempt Petitioner that since there has been willful disobedience on the part of Respondent No. 1 in the Contempt Petition in compliance of the said order, the Respondent No. 1 is liable for contempt of Court.

22. The Respondent No. 1 has filed a reply in the said Contempt Petition and has refuted the allegations made by the Contempt Petitioner. According to Ld. Counsel for the Respondent No. 1 (in the

Contempt Petition), the order passed by the Debt Recovery Tribunal on 13th October 2025 has not been challenged before the Appellate Forum. The learned Counsel also contended that on two occasions, even though this issue was raised about taking of possession on 13th October 2025, this Court has declined to consider the said fact. The learned Counsel further submitted that the Contempt Petitioner has breached the orders passed by this Court, wherein she had given an undertaking which was accepted by this Court that in the event DRT does not grant any interim relief from being dispossessed from suit property, the Contempt Petitioner shall not obstruct the Bank from taking physical possession of suit property. The learned Counsel for Respondent No. 1 submitted that this is a deliberate attempt to delay the process of taking possession, and therefore the Contempt Petition be dismissed.

23. Before advertng to the issue of contempt, a useful reference can be made to the judgment of the Apex Court in the case of ***Ram Kishan v. Tarun Bajaj & Ors.***¹ wherein it has been observed as under :

“11] The contempt jurisdiction conferred on to the law courts power to punish an offender for his wilful disobedience /contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined.

¹ (2014) 16 SCC 204.

Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities....”

12] Thus, in order to punish a contemnor, it has to be established that disobedience of the order is "wilful". The word "wilful" introduces a mental element and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. "Wilful" means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a "bad purpose or without justifiable excuse or stubbornly, obstinately or perversely". Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily.

There has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished.

.....

“15] It is well-settled principle of law that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable. The effect and purport of the order is to be taken into consideration and the same must be read in its entirety. Therefore, the element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act. [See Sushila Raje Holkar v. Anil Kak and Three Cheers Entertainment (P) Ltd. v. CESC Ltd.]”

24. On the backdrop of the judgment of the Hon'ble Apex Court, it will be pertinent to see whether in the facts of the present proceedings, a case is made out for issuance of notice under Contempt of Court's Act.

25. It needs to be mentioned here that although it was stated in the order dated 24/09/2025, that the Petitioner bank will give notice of 7 days before taking possession, the subsequent statement made by the Ld. Counsel for the Contempt Petitioner that in the event the DRT does not grant any interim relief from being dispossessed from the Suit Property, subject to the Petitioner's right of appeal, the Petitioner shall not obstruct the Bank from taking physical possession of the Suit Property, also needs to be considered. The DRT dismissed the application of the Contempt Petitioner on 13/10/2025 and therefore the bank proceeded to take possession of the secured asset.

26. It also needs to be considered that the bone of contention in the Contempt Petition, that the possession notice did not give 7 days period was never agitated as an act of contempt during the hearings on 10/10/2025 and even on 15/10/2025, rather the request during the hearing on 10/10/2025 was to direct the DRT to hear the Interim Application expeditiously and during the hearing on 15/10/2025, to permit her to take her belongings. We do not find that the Contempt Petitioner is genuinely agitated just because the Bank failed to give full 7 days notice before taking possession. If the Contempt Petitioner would have been so agitated, then she would have immediately challenged the

said notice, which she did not do.

27. We do not find the act of the Respondent No. 9 of giving notice of less than 7 days or that the Bank not giving notice, to be a case of gross contempt or any willful act for which any action under contempt of court is required to be initiated against the Respondent No. 1 or 9 in the Contempt Petition, although the prayer is for initiating contempt proceedings only against Respondent No 1. The office of the Tahsildar seems to have miscalculated the notice period. If the period from 07/10/2026 is calculated, the 7th day falls on 13/10/2025. Ideally the 7th day ought to have been excluded, however it appears to be a case sheer inadvertence and does not seem to be a willful disobedience on the part of either the office of Tahsildar or on the part of the bank officials. Assuming for the sake of arguments that a complete 7 days period was not given, however the Petitioner was even otherwise duty bound not to obstruct the taking of physical possession, as per the statement made, having failed to obtain any interim relief from being dispossessed from the DRT on 13/10/2025 and which was accepted as an undertaking to the court.

28. After taking into consideration, the overall conspectus of the matter, we are of the opinion that no case is made out for initiating

contempt proceedings against the Respondents and therefore dismiss the Contempt Petition.

29. In view of above, Interim Application (L) No. 4872 of 2026 and Interim Application No. 28679 of 2025 stand disposed of.

30. We have also gathered an impression that the Respondent No. 2, has deliberately chosen not remove her entire belongings from the secured asset. We are of the opinion that the Respondent No. 2 has sufficiently dragged the proceedings under one pretext or the other. This cannot continue *ad nauseam*. The Majesty of law has to prevail. No person will be permitted to subvert the rule of law.

31. We therefore direct the authorised officer of the Petitioner, Tahsildar Mira-Bhayandar, Respondent No. 3 and the Respondent No. 2 Reshma Bhavesh Shah, to remain present on 25/08/2026. The Tahsildar shall in presence of all the parties present, open the seal/lock of the secured asset and Respondent No. 2 i.e Reshma Bhavesh Shah shall remove all the movable articles and her belongings present in the secured asset. The Tahsildar, Mira-Bhayandar shall make an inventory of the list of articles which the Respondent No. 2 would be removing and a copy of the list shall be given to the Contempt Petitioner and her signature shall be obtained on the counter copy. The Respondent No. 3

is directed to provide adequate police personnel which shall include lady constables as well at the time of removing the articles/belongings lying in the secured asset. In the event, the Respondent No. 2 or any other person at her instance, creates any obstruction, the Respondent No. 3 through lady constables, shall use adequate, reasonable, proportionate and necessary force to prevent any such obstruction. Needless to mention that the Respondent No. 2 shall enter the Secured asset (Flat) only for the purpose of removing her belongings and thereafter exit the same in order to enable the Petitioner Bank to once again lock the secured asset. The absolute and vacant possession of the secured asset free from assets of the Respondent No. 2, shall be handed over to the petitioner (secured creditor). The police shall properly video graph/record the entire process of removing of articles and belongings and preserve the same for further reference.

32. In the event the Respondent No 2 chooses not to remain present on the date fixed for taking possession i.e on 25/8/2026, the officers of the Petitioner in the presence of Tahsildar and Respondent No 3 shall cause to remove the assets and belongings of the Respondent No. 2, at their own cost and after preparing a proper inventory, keep the same in some safe godown or any other safe place and intimate the Respondent

No. 2 to collect the same within a period of 3 days.

33. It is also made clear that if the directions issued hereinabove, are not complied with, the Tahsildar, Mira-Bhayander and Respondent No. 3, the Senior Inspector of Police, Navghar Police Station shall personally remain present in this Court on the next date of hearing and file an affidavit as to why the physical possession could not be taken. The Respondent No. 3 shall, under no circumstances, abstain from complying with the orders of this court, on the scheduled date, failing with the consequences will follow.

34. A copy of this order shall be served to the Respondent Nos. 2 by Respondent No. 3, through a lady constable. If the Respondent No. 3 refuses to accept, the same shall be pasted on the door of the secured asset and panchnama to that effect shall be drawn in the presence of two independent panchas.

35. List for compliance on 31/08/2026.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)