

UNREPORTED

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

BENCH AT AURANGABAD.

WRIT PETITION NO.1781 OF 2014

Godavari Manar Sakhar Kamgar
Union, Shankar Nagar, Tq.
Biloli, Dist. Nanded, through
its Vice President,
Ramrao S/o Jalbaji Deglure,
Age 50 years, Occ. Employee of
Respondent No.4-Sugar Factory,
R/o Shankar Nagar, Tq. Biloli,
Dist. Nanded. ... Petitioner.

Versus

1. The State of Maharashtra,
through its Secretary,
Co-operation and Textile,
Department, Mantralaya,
Mumbai-32.

2. The Commissioner of
Sugar, Maharashtra State,
Pune-1.

3. The Regional Joint Director
of Sugar, Nanded.

4. The Liquidator,
Godavari Manar Cooperative
Sugar Factory Ltd.,
Shankar Nagar, Tq. Biloli,
Dist. Nanded.

5. The District Central
Cooperative Bank Ltd.,

Nanded, through its Managing Director.

6. The Dollex Industries Ltd.
Through its General Manager,
19/1, Maruti Arcade,
Indore-452 010 (M.P.). ... Respondents.

...

WRIT PETITION NO.2222 OF 2010.

1. Nilkanth S/o Mohanrao Shinde,
Age 52 years, Occ.Employee of
Respondent No.4 Sugar Factory,

2. Laxman S/o Marotirao Thadke,
Age 56 years, Occ.Employee of
Respondent No.4 Sugar Factory.

3. Shaikh Mashroddin Shaikh
Hyder, Age 53 years, Occ.
Employer of Respondent No.4-
Sugar Factory.

4. Shankar S/o Madhavrao Lashkare,
Age 52 years, Occ.Employer of
Respondent No.4 Sugar factory.

5. Uttam S/o Venkatrao Pawar,
Age 51 years, Occ.Employee of
Respondent No.4 Sugar Factory.

6. Ramrao S/o Hullaji Farse,
Age 57 years, Occ.Employee of
Respondent No.4 Sugar Factory.

7. Sambhaji S/o Hanmantrao
Marajwade, Age 53 years, Occ.
Employee of Respondent No.4
Sugar Factory.

8. Sayyad Ahmedmiya Pashmiya,
Age 53 years, Occ.Employee of
Respondent NO.4 Sugar factory.

9. Maroti S/o Manikrao Lokade,
Age 54 years, Occ.Employee of
Respondent NO.4 Sugar Factory,

10. Madhukar S/o Manikrao Jahagirdar,
Age 55 years, Occ.Employee of
Respondent No.4 Sugar Factory.

All R/o Shankar Nagar, Tq.
Biloli, Dist.Nanded. ... Petitioners.

Versus

1. The State of Maharashtra,
through its Secretary,
Co-operation and Textile
Department, Maharashtra
State, Mantralaya, Mumbai.

2. The Commissioner of Sugar,
Maharashtra State, Pune-1.

3. The Regional Joint Director
of Sugar, Nanded.

4. The Liquidator,
Godavari Manar Cooperative
Sugar Factory Ltd. Shankar
Nagar, Taluka Biloli, Dist.
Nanded.

5. The District General
Cooperative Bank Ltd.,
Nanded, through its Managing
Director.

6. The Dollex Industries Ltd.,
through its General Manager,
C/o 607, Maker Chamber, V-221,
Nariman Point, Mumbai. ... Respondents.

...

Mr.P.G.Rodge, advocate for the petitioners.
Mr.S.G.Sangle, Asstt. Govt. Pleader for the
State.

Mr.G.D.Kale, advocate for the Respondent No.4.

Mr.K.J.Suryawanshi, advocate for Respondent No.5.

...

**CORAM : S.V.GANGAPURWALA &
V.K.JADHAV, JJ.**

Date : 31.07.2015.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule made returnable forthwith.
With the consent of the parties, the petitions
are taken up for final hearing.

3. One of the prayer made in
W.P.No.1781/2014 is that the Respondents shall
not proceed further with auction as per E auction
sale notice issued by Respondent No.5 dated
3.2.2015. It has been stated on affidavit by
Respondent No.5 that pursuant to the said
advertisement, no sale proceedings are taken up.
The said relief does not survive.

4. The petitioners claim to be the Union
of Employees, so also the individual workers. The
contention is that they have not been paid their
legitimate dues. The Respondent-Bank has taken

over the assets under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and is trying to auction the property detrimental to the interest of the workers.

5. We have heard Mr.N.P.Patil Jamalpurkar, learned counsel, learned Asstt. Govt. Pleader so also Mr.Rodge, learned counsel for the petitioner, Mr.Suryawanshi, learned counsel for the Bank.

6. It is not disputed that the Karkhana has gone in liquidation. The secured creditors have resorted to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

7. Once the Karkhana is under liquidation and the liquidator is appointed, it is for the liquidator to distribute the assets of the Karkhana, its sale proceeds. The workers can represent before the liquidator about their

rights and about their charge over the sale proceeds. It is for the liquidator to consider the claims and distribute the sale proceeds amongst the workers, secured creditors in accordance with the preferential charge and/or pari passu charge. Even Section 13 Sub-Section 9 will be required to be considered by the liquidator, so also provisions of the Maharashtra Cooperative Societies Act, and Rules while considering the distribution of sale proceeds. The petitioners also have a remedy before the Debt Recovery Tribunal, in case they are aggrieved by any of the actions of the secured creditors. The petitioners can resort to any of these remedies available under law, in event the petitioners are aggrieved by any further action of the liquidator and/or secured creditors.

8. Rule accordingly disposed off in terms of above observations and directions. No costs.

Sd/-
(V.K. JADHAV, J.)

Sd/-
(S.V. GANGAPURWALA, J.)

