

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5203/2014

(Shivaji Rice Mills Th: Proprietor & another vs. The Manager, Akola Urban
Co-op. Bank Ltd. & another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Mr. R.K. Thakkar, Adv. for the petitioners
Mr. A.S. Agrawal, Adv. for Respondents

CORAM : SMT.VASANTI A. NAIK &
A.M.BADAR, JJ.

DATED : 30th March, 2015.

Heard.

By this petition, the petitioners challenge the order passed by the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal dated 28.10.2013 and 30.6.2014 respectively, so far as they reject the prayer of the petitioner for amendment of the Appeal.

On hearing the learned counsel for the parties and on a perusal of the impugned orders, we do not find that the authorities have exercised the discretion illegally or capriciously while rejecting a part of the amendment. The Tribunal rightly permitted the petitioner to amend the appeal so as to join the auction-purchaser as a party to the Appeal and rejected the part of the amendment by which the petitioner raised a challenge to the price at which the property was sold to the auction-purchaser. While rejecting the part of the amendment application, the authorities

considered the fact that the upset price was fixed much before the sale of the property to the auction-purchaser and the petitioners had neither raised a challenge to the fixation of the upset price to be on a lower side nor had the petitioners challenged the upset price at the stage when the respondent-Bank tried to sell the property initially for a sum of Rs. 55 lakhs and odd. The authorities must have considered that serious prejudice would be caused to the respondent-Bank, if the application challenging the upset price or the inadequacy of consideration was permitted at the fag end of the proceedings.

In view of the aforesaid, we dismiss the Writ Petition, with no order as to costs.

JUDGE

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