

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO. 438 OF 2015  
WITH CA/308/2015 IN WP/438/2015

PANGESHWAR SUGAR MILLS LIMITED, PANGAON  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. V.D. Gunale  
AGP for Respondents: Mrs. A.V. Gondhalekar.

CORAM : S.V. GANGAPURWALA  
& K.K. SONAWANE, JJ.  
DATE : 5TH JULY , 2016.

**PER COURT:**

1] Mr. Gunale submits that the dues of the secured creditors were to the tune of Rs. 54 Crores and the property is sold for Rs. 69 Crores. The petitioner is entitled for its dues recoverable from respondent NO.4 which is to the tune of Rs. 76,20,940/-.

2] Learned AGP waives notice for respondent Nos. 1 and 2.

3] The sale notice itself states that dues of the secured creditor were 90,26,79,000/- and property, even as per the petitioner, is sold for Rs. 69 Crores. The secured creditors dues itself are not satisfied. The property was sold under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (Hereinafter referred to as the SERFASI Act). The petitioner does not appear to be a secured creditor and would also not come high on the priority list of the claimants. Learned counsel relies on the sale certificate stating that the purchaser has to clear the

outstanding statutory or other dues. The property has been purchased by the auction purchaser in an auction conducted under the SERFESI Act, The dues allegedly recoverable by the petitioner from respondent No.4 are contractual dues. Moreover, there is no decree in existence nor any recovery certificate in existence for crystallizing said amount as claimed by the petitioner.

4] In view of that, the relief claimed by the petitioner cannot be considered. In case the petitioner has any other remedy available the petitioner is entitled to prosecute the same. The petitioner may take up the plea of benefit of Section 14 of the Limitation Act, as may be permissible. Writ petition is disposed of. In view of the disposal of the writ petition, civil application also stands disposed of.

**[K.K. SONAWANE]**  
JUDGE

**[S.V. GANGAPURWALA]**  
JUDGE.

grt/-