

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

WRIT PETITION NO. 2522/2013.

1.The Maharashtra State Cooperative Bank Ltd. And another.

-VERSUS-

1.The State of Maharashtra and others.

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

Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI
& P.N. DESHMUKH, JJ.

DATE : APRIL 11, 2016.

Heard Shri M.V. Samarth, learned Counsel
for the petitioners and Smt. B.H. Dangre,
learned Government Pleader for respondent
nos. 1 and 2.

2. Learned Government Pleader invites
attention to the fact that an affidavit disclosing
upset price as fixed is placed on record. She
submits that after petitioner Bank hands over
possession of the immovable property to
Liquidator of respondent no.3 Cooperative

Society, the Liquidator will proceed further with sale of that property in a time bound manner.

3. Shri Samarth, learned Counsel for the petitioners states that as the upset price was not being decided, this petition was required to be filed in April, 2013 and almost after three years the upset price has been fixed. He therefore, earnestly requests this Court to permit respondent no.1 Bank to associate itself with the auction proceedings. He states that immovable property i.e. the land, factory, plant and machinery should be allowed to be put to action jointly by the petitioner no.1 and the Liquidator of respondent no.3 Society.

4. Learned Government Pleader is opposing this submission. According to her, as per the provisions of the Maharashtra Cooperative Societies Act, 1960 it is the duty of the Liquidator to put the property to auction.

5. We find that the petitioner no.1 had filed a dispute under Section 91 of the Maharashtra

Cooperative Societies Act, 1960 against respondent no.3 and obtained a decree/award in it. The petitioner no.1 was in the process of executing that award when liquidation proceedings started.

6. As the liquidation proceedings have already started, entitlement of petitioner no.1 is subject to outcome of such liquidation proceedings. The award obtained by it will be required to be placed before the liquidator for its payment.

7. However, considering the fact that the upset price itself is determined only after three years, we find that interest of justice can be met with by directing the petitioner no.1 to furnish a inventory of the property which is to be put to auction within a period of four weeks from today. The description of the property sufficient to identify it and put it to auction, shall be contained in such inventory. After receipt of such inventory, the liquidator of respondent

no.3 shall be permitted to inspect the property as per the inventory within a period of two weeks. The respondent no.3 shall then put that property to auction in accordance with law, and effort shall be made to complete the auction proceedings within a period of next three months.

8. The claim of petitioner no.1 Bank on account of decree obtained by it shall be appropriately given preference and treatment during such proceedings. Shri Samarth, learned Counsel submits that in view of this time bound direction and fact that the petition is pending since last 3-4 years, hence, after auction the matter should be heard.

9. The issue revolves around determination of the upset price. From the additional affidavit filed by the Government Pleader, it is revealed that determination of the upset price has consumed lot of time. Now when the said stage is over, further scrutiny will be relating to the

further steps and other facets of the auction proceedings. As such, without observing anything on the merits of the controversy and contentions raised by either side about such future course, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE

Rgd.