

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4681 /2016

(Shrikant Vasant Anjekar vs. Special Recovery Officer, Shri Anand Nagri Sahakari Bank Ltd.
Chandrapur)

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

Court's or Judge's order

Mr. Rohan Chandurkar, Advocate for the petitioner

**CORAM : SMT. VASANTI A NAIK &
MRS. SWAPNA JOSHI, JJ.
DATED : 10th August, 2016**

Heard.

By this Writ Petition, the petitioner has challenged the auction notice issued by the respondent-Bank, by which the property of the petitioner was sought to be auctioned, by inviting tenders till 9.8.2016.

Shri Chandurkar, the learned counsel for the petitioner states that the petitioner has challenged the auction notice in this Court, by filing a writ petition, as it is not stated in the auction notice under which enactment, the proceedings for auctioning of the property of the petitioner, are undertaken. It is stated that there is no date mentioned on the auction notice and it is also not clear from the auction notice as to how much amount is due and payable by the petitioner, towards the dues of the bank.

We are afraid that the relief sought by the petitioner of quashing and setting aside the auction notice cannot be granted, in exercise of the writ jurisdiction. We find from a perusal of the documents annexed to the petition that, a recovery certificate

under section 101 of the Maharashtra Cooperative Societies Act, 1961 was issued against the petitioner. There is an alternate, efficacious remedy provided under the Maharashtra Cooperative Societies Act, for challenging the auction notice. Without challenging the auction notice before the appropriate forum, the petitioner has rushed to this Court, challenging the auction notice, on absolutely frivolous ground that the action notice could be quashed in exercise of the writ jurisdiction, as it is not mentioned in the auction notice, under which provision the auction is sought to be conducted. The petitioner has not disputed that the petitioner has secured the loan from the respondent-Bank and a recovery certificate is issued against the petitioner, under section 101 of the Maharashtra Cooperative Societies Act. Also, we find that though there is no date on the auction notice, it appears that the auction notice is published in a daily newspaper that is circulated in Chandrapur. On the basis of the date on the newspaper the petitioner could have very well become aware, about the date on which the auction notice was published. Moreover, it is clear from perusal of the auction notice that it was issued long back as the tenders were invited from 25.7.2016 to 9.8.2016. This shows that the auction notice was published before 25.07.2016.

In any case, since the petitioner cannot challenge the auction notice in exercise of the writ jurisdiction especially on the grounds that are raised in this Writ Petition, the Writ Petition is liable to be dismissed. Hence we dismiss the Writ Petition with costs.

JUDGE

JUDGE

C E R T I F I C A T E

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.”

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