IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO. 4948 OF 2012
WITH
CIVIL APPLICATION NO. 7123 OF 2012
AND
CIVIL APPLICATION NO. 9812 OF 2012

Devidas Dagdu Kale — Petitioner

Versus

The State of Maharashtra and others — Respondents

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Mr. D.P. Palodkar, Advocate for petitioner / applicant.
Mr. Y.G. Gujrathi, A.G.P. for respondent Nos.1 and 2.
Mr. K.J. Suryawanshi, Advocate for respondent No.5.
Mr. V.S. Kadam, Advocate for Intervenor.

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WITH
CIVIL APPLICATION NO. 7677 OF 2014

The Maharashtra State Co-operative Bank Ltd. — Applicant

Versus

The State of Maharashtra & others — Respondents

***

Mr. Vikram S. Kadam, Advocate for the applicant.
Mr. Y.G. Gujrathi, A.G.P. for respondent Nos.1 and 3.
Mr. D.P. Palodkar, Advocate for respondent No.2.
Mr. K.J. Suryawanshi, Advocate for respondent No.6.

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WITH

CIVIL APPLICATION NO. 7678 OF 2014

International Asset Reconstruction
Company Pvt. Ltd. Applicant

Versus

Devidas Dagdu Kale and others Respondents

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None for the applicant.

Mr. D.P. Palodkar, Advocate for respondent No.1

Mr. Y.G. Gujrathi, A.G.P. for respondent No.2.

Mr. K.J. Suryawanshi, Advocate for respondent No.4.

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WITH

CIVIL APPLICATION NO. 8040 OF 2014

M/s Devgiri Sahakari Sakhar
Karkhana Ltd., Applicant

Versus

The State of Maharashtra & others Respondents

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Mr. K.J. Suryawanshi, Advocate for applicant.

Mr. Y.G. Gujrathi, A.G.P. for respondent Nos.1 and 2.

Mr. D.P. Palodkar, Advocate for respondent No.6.

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CORAM : **RAVINDRA V. GHUGE**
AND
SUNIL K. KOTWAL, JJ.

Dated : 03-11-2017.

ORAL ORDER :-

1. We have heard the learned Advocates for the respective sides. Civil Application No. 7677 of 2014 is allowed in terms of prayer Clause 'A'.

2. We have considered the submissions of Shri Kadam, learned Counsel appearing on behalf of the applicant.

3. In the light of the submissions of the learned Advocates for the respective sides, we have considered the prayers put forth and we have also gone through the judgment of this Court dated 29.11.2011 in **Writ Petition No. 10934 of 2010** in the matter of **Shaikh Gulab Shaikh Ahemad and another Versus The State of Maharashtra and others**.

4. Respondent Nos.4 and 5 herein were respondent Nos.4 and 5 in Writ Petition No. 10934 of 2010. We find that this Court, by its judgment dated 29.11.2011, has culled out certain principles underlying the public auction in matters involving similar set of facts. The said directions are found in Clause-2 of paragraph No. 37 of the

said judgment.

5. Learned Counsel for the petitioner submits that the respondents will have to follow the said procedure while carrying out auction proceedings. Learned Advocates for respondent Nos.1 to 3, 5 and 7 contend that the auction proceedings have been undertaken under the orders of the D.R.T. on various occasions and it is on account of fortuitous circumstances that the auction proceedings have not succeeded.

6. We find that this Petition would not survive to the extent of the prayers set out in Clauses 'A' & 'B' below paragraph No.25, as they were with regard to the Tender Notice and Corrigendum dated 17.05.2012 and 21.05.2012 respectively. As the said letters have been rendered infructuous because of the failure of the auction proceedings at the relevant time, this Petition need not be entertained to the extent of such prayers.

7. In so far as the prayer of the petitioner that the guidelines set out by this Court in the judgment dated 29.11.2011 should be followed while conducting auction proceedings is

concerned, the learned A.G.P. appearing on behalf of the Statutory Authority submits that it is nobody's intention to violate the Rules and guidelines applicable in conducting auction proceedings.

8. By recording the said statement, this Petition is disposed of.

9. Pending Civil Applications do not survive and stand disposed of.

(SUNIL K. KOTWAL)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

vdd/