

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4257 OF 2017

Union Bank of India Petitioner
Vs.
The State of Maharashtra & Others Respondents

Mr. Atul Damle, Senior Counsel i/by Mr. Nainesh N.
Amin for the Petitioner.
Mr. V.A. Sonpal, Special Counsel, for Respondent
Nos.1 to 4.

**CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : MAY 02, 2017

P.C:

1. We do not think that we should entertain any petition by the Union Bank of India challenging a Notice at page 81 of the paper-book.

2. That Notice says that an auction was held on 21-3-2017.

3. This is the fourth auction in the line. The defaulter's property could not be sold for want of offers and to match the price in the market that the property commands. In such circumstances, Section 220 of the Maharashtra Land Revenue Code, 1966 has been resorted to by the Collector.

4. It is stated in the Notice itself that this provision had to be resorted to for successive auctions were unsuccessful.

5. We do not think that we should enter into the disputed fact and as projected in the petition. The Bank accuses the State of not having determined the reserve price below which the property could not have been sold. Secondly, this action under Section 220, according to the Bank, should not have been resorted to without the Bank being given an opportunity to put the property for sale.

6. On the earlier occasion we granted time to the Bank to find out any buyer or to place its offer for consideration but it failed.

7. In the circumstances, the High Court under Article 226 of the Constitution of India cannot determine the disputed factual issues. The Bank has all the remedies open and to question the action. It can on the basis of its claim ranking higher in priority allegedly bring an action so as to question the State's exercise of power under Section 220 of the Maharashtra Land Revenue Code. It is in these circumstances that we do not wish to interfere in the petition under Article 226 of the Constitution of India. Since huge public dues are pending and are not recovered, we do not think that the Collector should hold on to the property. Within the time but permitted by the statutory provision, it would be in the interest of all to have an endeavour made to dispose of the property as expeditiously as possible.

8. With the above clarification, we dispose of this petition.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)