IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9663 OF 2014

1. Shri Pandurang R. Kanade **Age078, Occu. Advocate** **R/at: Kanade Wada, Brahmin Galli,** **Vita, Sangli**	))))	
2. Shri Dhananjaya A. Garware **Age-67, Occu: Agriculturist,** **R/at, Dharmadhikari Building,** **Yashwantnagar, Salshinge Road,** **Vita, Sangli – 415311**	)))))	**..Petitioners**

Vs.

1 The State of Maharashtra **through its Secretary,** **the Department of Co-operation,** **Marketing & Textile** **Having office at Mantralaya, Mumbai** **Maharashtra 400 032**	))))))
2 The Commissioner for Co-operation **And Registrar, Co-operative Societies,** **Maharashtra State, Pune** **having office at** **2nd floor, New Central Building** **Ambedkar Wellesley Rd,** **Pune, Maharashtra 411001**	)))))))
3 The Additional Registrar, **Co-operative Societies,** **Having office at** **2nd floor, New Central Building** **Ambedkar Wellesley Rd,** **Pune, Maharashtra 411001**	)))))
4 The Divisional Joint Registrar **Co-operative Societies, Kolhapur,** **Udyog Bhavan, Near office of** **District Collector, Kolhapur**	))))

5 The District Deputy Registrar Sangli, Having its office at VirAcharya Babasaheb Buchnure Road, Kubera Chambers, Sangli	**)))))**	
6 The Assistant Registrar, Co-operative Societies, Vita, Tahsil-Khanapur, Sangli	**)))**	
7 The Official Liquidator, The Vita Co-operative Electric Supply Society Ltd., Vita Having its office at Vita, Tal- Khanapur, Dist Sangli	**)))))**	
8 The Vita Urban Co-operative Credit Society Ltd. Vita through It's Chairman Shri Vaibhav S. Patil Age 29 yrs Occu Agriculturist R/at Punyayi Niwas Vita, Yashwantnagar, Tahsil Khanapur, District : Sangli – 415311	**)))))))**	
9 Shri Harshvardhan Patil Age Adult, Occu Politician R/at (1) At post Bavada, Tal Indapur Dist Pune And also at (2) A-6, Madam Cama Road, Opp Mantralaya, Mumbai 400 032	**)))))))**	
10 Shri Sadashivrao Patil Age Adult Occu Politician R/at Punyayi Niwas Vita, Yashwantnagar, Tahsil Khanapur, District : Sangli – 415311	**)))))**	
11 The Maharashtra State Electricity Distribution Company Ltd. Hongkong Bank Building, M. G. Road, Fort, Mumbai 400 001	**))))**	**..Respondents**

Mr. D.S.Patil a/w Mr. Parag Tilak for the Petitioners
Mr. P. K. Dhakephalkar Senior Advocate i/b Mr. N. V. Pawar for the Respondent No.8
Mrs. R. A. Salunkhe AGP a/w Mr. A. I. Patel Addl G. P. for State
Mr. N. V. Walawalkar Senior Advocate i/b Mr. V. R. Gaikwad for the Respondent No.7
Mr. Arsha Misra i/b M. V. Kini & Co for the Respondent No.11
Mr. A. J. Kenjale for the Respondent No.9
Mr. Sarthak Diwan i/b Mr. A. M. Kulkarni for the Respondent No.10

CORAM :R. M. SAVANT, &
SARANG V KOTWAL, JJ
DATE : 31st OCTOBER, 2017

ORAL JUDGMENT (PER R. M. SAVANT J.)

1 Rule. Considering the challenge raised, made returnable forthwith and heard.

2 The Writ Jurisdiction of this Court under Article 226 of the Constitution of India is invoked for quashing and setting aside the order dated 6-2-2013 passed by the Respondent No.6 i.e. the Assistant Registrar of Co-operative Societies, Vita, quashing and setting aside the order dated 18-2-2013 passed by the Respondent No.7 i.e. the Official Liquidator appointed on the Vita Co-operative Electric Supply Co-operative Ltd., Vita and for a declaration that the Sale Deed dated 22-2-2013 with respect to land bearing Survey No.558 admeasuring 1405.9 sq.mtrs along with Municipal House No.299 situate at Vita, Taluka Khanapur, District Sangli, executed in favour of the

Respondent No.8, is illegal and void and to quash and set aside the said Sale Deed dated 22-2-2013.

3 The facts giving rise to the above Petition in brief can be stated thus:-

The Petitioners were the members of the co-operative society known as Co-operative Electric Supply Society Ltd. (for short “the CESS Ltd.”). The said society was registered in the year 1953 and its object was to produce and supply electricity to the town of Vita, Taluka Khanapur, District Sangli. The bone of contention in the above Petition is the land bearing CTS No.558 admeasuring 1405.9 sq.mtrs. along with Municipal House No.299 situate at Vita which property belongs to the said CESS Ltd. It is an undisputed position that the said property belonging to the said CESS Ltd was purchased partly by funding from its share capital and partly by taking loan. The residents of the town Vita can be said to have therefore contributed to the formation of the said CESS Ltd. The said society had at the relevant time around 600 members.

4 The said CESS Ltd carried out its activities of production and supply of electricity to the Vita town till the year 1984. However, due to increase in the manufacturing costs of electricity the CESS Ltd decided to purchase bulk electricity from Maharashtra State Electricity Board (MSEB for short) and in turn supply the same to its consumers. On the MSEB taking up

the supply of electricity to the town of Vita the assets of the said CESS Ltd along with its staff was transferred to MSEB on 31-3-1984 save and except the said plot of land. It seems that on account of the fact that the objective for registering the said CESS Ltd ceased to exist, the Assistant Registrar Co-operative Societies by order dated 20-2-1997 passed a final order appointing the Official Liquidator to manage and administer the said CESS Ltd. It seems that the MSEB filed a Suit being Special Civil Suit No.118 of 1987 in the Court of the Learned Joint Civil Judge Senior Division, Sangli for recovery of the amount due from the said CESS Ltd. The said Suit came to be decreed by judgment and order dated 2-8-2010 by which decree the parties i.e. the MSEB and CESS Ltd. were directed to settle their respective accounts as per the Government Notification and directed the State Government to make compliance of the said settlement within 6 months. It is an undisputed position that the modality as suggested by the Learned Civil Judge Senior Division by the decree passed in the Suit has not been complied with till date.

5 The Assistant Registrar Co-operative Societies, Vita i.e. the Respondent No.6 herein appointed one Shri B. S. Bodare as the Liquidator to liquidate the assets remaining with the said CESS Ltd. It is after the appointment of the Official Liquidator Shri Bodare that the facts which are in contention in the above Petition have unfolded. The Respondent No,8 herein which is a credit society and which also operates in Vita held a meeting on 27-

7-2012 and passed a resolution on the said day by which resolution it decided to acquire the land held by the said CESS Ltd. The Respondent No.8 accordingly vide its letter dated 8-9-2012 made an application to the Liquidator for purchasing the land belonging to the said CESS Ltd. In the said application the purpose was mentioned as to construct a commercial warehouse for its members. It appears that the founder member of the Respondent No.8 was the local Member of the Legislative Assembly (MLA) Mr. Sadashivrao H. Patil who addressed a letter dated 18-9-2012 to the then Hon'ble Minister for Co-operation, Government of Maharashtra and requested the Hon'ble Minister to look into the matter as regards the request of the Respondent No.8 to purchase the land belonging to the said CESS Ltd. On the said letter an endorsement was made by the Hon'ble Minister directing the Commissioner Co-operation to process the application of the Respondent No.8 expeditiously. It seems that on 20-9-2012 the Additional Registrar Co-operative Societies, addressed a letter to the Respondent No.5 i.e. District Deputy Registrar, Sangli and ordered him to scrutinize the application of the Respondent No.8 as per norms and immediately forward it to the Registrar's office. The Respondent No.5 District Deputy Registrar immediately on the next day i.e. 21-9-2012 addressed a letter to the Respondent No.6 Assistant Registrar of Co-operative Societies, Vita, directing him to obtain a report from the Respondent No.7 Liquidator and submit the same to his office. It seems that on 26-9-2012 within a span of 4 days the Respondent No.6 gave a detailed reply to the Respondent No.5 and apart from mentioning the antecedent facts relating to the said CESS Ltd also stated that there were two applications received for the purchase of land in question one being from the Respondent No.8 and the other being from one Viraj Co-operative Dairy Ltd., Vita. In the said letter, the Assistant Registrar also mentioned that in the process of liquidation the land belonging to the society in liquidation is required to be transferred to a society having the same purpose as the society in liquidation. It seems that thereafter on 1-10-2012 a Mutation Entry No.3794 came to be effected in respect of the land in question in the name of the Liquidator. The Respondent No.5 on receipt of the letter of the Assistant Registrar addressed a letter dated 5-10-2012 to the Commissioner Co-operation, Government of Maharashtra. It seems that thereafter on 6-12-2012 the Respondent No.5 District Deputy Registrar vide his letter of the said date requested the Respondent No.2 that it is better if the Respondent No.7 gets the valuation done of the land of the said CESS Ltd. Thereafter a public notice came to be issued on 12-12-2012 and 14-12-2012 in terms of Rule 89(4) of the Maharashtra Co-operative Societies Rule in daily newspaper Lokmat. The said notice was to the public at large to lodge their claims if any against the society in liquidation i.e. the CESS Ltd. It seems that on 18-1-2013 the Respondent No.6 Assistant Registrar vide his letter of the said day to the Respondent No.7 Liquidator again asked him to process the matter as regards the sale of the land belonging to the said CESS Ltd. Upon this the Respondent

No.7 Liquidator vide letter dated 4-2-2013 addressed to the Respondent No.6 stated that he had received the application of the Respondent No.8 and as per the valuation reports obtained by him the market value of the land is Rs.1,20,50,000/-. The Liquidator specifically asked for a direction as to whether the sale of the said land in question is to be done as per Section 105(1)(c) of the Maharashtra Co-operative Societies Act (for short MCS Act) by public auction or as per market valuation price by private treaty. The Respondent No.7 by the said letter specifically sought guidance of the Respondent No.6 as to whether the sale was required to be effected in favour of the Respondent No.8 society. The Respondent No.6 vide his letter dated 6-2-2013 in reply to the said letter of the Liquidator dated 4-2-2013 only stated that the sale has to be carried out as per Section 105 of the MCS Act.

6 The Respondent No.7 Liquidator thereafter by his communication dated 18-2-2013 sanctioned the sale in favour of the Respondent No.8 society of the land of the said CESS Ltd for total consideration of Rs.1,20,50,000/-. Thereafter the Sale Deed was registered in the office of the Sub-Registrar, Khanapur on 22-2-2013. As indicated above it is the said orders passed by the Respondent No.6, the Respondent No.7 and the Sale Deed dated 22-2-2013 which are taken exception to by way of the above Petition.

7 At this stage it is required to be noted that the Petitioners herein

had earlier filed PIL No.226 of 2013 in this Court raising the same challenge as raised in the instant Petition. A Division Bench of this Court had directed the Petitioners to deposit an amount of Rs.25 lacs to prove their bonafides. The Petitioners have accordingly deposited the said sum of Rs.25 lacs in this Court. The said PIL had thereafter come up before another Division Bench of this Court (N.H. Patil and B. P. Colabawalla JJ). It seems that having regard to the nature of the challenge raised as also having regard to the capacity in which the said Petitioners had filed the said PIL, the Division Bench observed that a PIL would not lie and the Petitioners would have to file a Writ Petition as they are espousing a private cause. This is how the instant Petition has been filed by the Petitioners. The Petitioners are therefore before this court immediately after the decision to sale the land to the Respondent No.8 was taken and the Sale Deed executed.

8 In so far as the above Petition is concerned, on behalf of the Liquidator i.e. the Respondent No.7 an Affidavit in Reply has been filed wherein the Respondent No.7 has sought to justify the order passed by him as also the Sale Deed executed in favour of the Respondent No.8. In so far as the Respondent No.8 is concerned, it has also filed its affidavit and has also sought to defend the sale which has been executed in its favour.

9 We have heard the Learned Counsel for the parties.

10 The principal contention of the Learned Counsel for the Petitioners was that the sale has been made in favour of the Respondent No.8 by private treaty and without holding an auction is in breach and violation of Section 105 of the MCS Act. It was the submission of the Learned Counsel that the sale has been effected in favour of the Respondent No.8 on account of extraneous consideration and in view of the influence exerted by the local MLA pursuant to which there were directions issued/passed by the then Hon'ble Minister to process the application of the Respondent No.8 on an expeditious basis. It was the submission of the Learned Counsel that the sale effected in favour of the Respondent No.8 is for an amount which is much below the market price. The Learned Counsel sought to rely upon the documents which have been annexed to the above Petition especially the letter dated 13-9-2012 addressed by the local MLA who is the founder of the Respondent No.8 society on which an endorsement has been made by the then Hon'ble Minister for Co-operation directing the Commissioner of Co-operation to process the application of the Respondent No.8 expeditiously to buttress the said contention. The Learned Counsel would contend that in fact there was no need for such an urgency as the society in liquidation does not owe any amount to any person or body and the society is required to be liquidated only because the purpose of its registration has come to an end on the account of the fact that the distribution of the electricity has been taken over by the

Distribution Company namely the MSEDCL. It was the submission of the Learned Counsel that the manner in which the sale has been completed does not inspire confidence and reeks of malafides and also is an attempt to cause wrongful gain to the Respondent No.8.

11 Per contra the Learned Senior Counsel Mr. Dhakephalkar appearing for the Respondent No.8 would contend that a sale by private treaty is also one of the modalities contemplated by Section 105(1)(c) of the MCS Act. It was the submission of the Learned Senior Counsel that the Official Liquidator had made the sale in favour of the Respondent No8 only after following the procedure by obtaining valuation reports of as many as three valuers. The Learned Senior Counsel would submit that much importance need not be attached to the endorsement made by the then Hon'ble Minister on the letter dated 18-9-2012 of the founder of the Respondent No.8 i.e. the local MLA. The Learned Senior Counsel would contend that it is not unknown that such letters are usually addressed by the persons who are concerned for a society. The Learned Senior Counsel would contend that since the Sale Deed has been executed and since the Respondent No.8 is in possession, the same may not be interfered with by this Court in its Writ Jurisdiction under Article 226 of the Constitution of India.

12 The Learned Senior Counsel Mr. Walawalkar appearing for the

Respondent No.7, would seek to support his order as also the Sale Deed executed in favour of the Respondent No.8. The Learned Senior Counsel would contend that the provisions of Section 105(1)(c) have been complied with as the Respondent No.7 had addressed a letter to the Assistant Registrar Co-operative Societies i.e. the Respondent No.6 evincing his guidance in respect of the sale to be conducted in favour of the Respondent No.8 and it is only after receiving the said guidance vide letter dated 6-2-2013 that the Respondent No.7 moved forward and pass an order and carried out the sale in favour of the Respondent No.8. The Learned Senior Counsel would therefore contend that no interference is called for in the Writ Jurisdiction of this Court with the action of the Respondent No.7.

13 Having heard the Learned Counsel for the parties we have given our anxious consideration to the rival contention. The question that is posed before us is whether the sale effected in favour of the Respondent No.8 can be said to meet the requirement of Section 105(1)(c) of the MCS Act. The said issue can be said to be at the fulcrum in so far as the instant Petition is concerned. To answer the said issue it would be apposite to refer to the relevant excerpt of Section 105(1)(c), (c-i) and (c-ii) of the MCS Act, the same is reproduced hereinunder for the sake of convenience :

> (c) to sell immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body

> corporate, or sell the same in parcels.
>
> (c-i) to transfer by sale assets valued at market price to a society registered with similar objects or to Government undertaking which carries on the same business as of the society under liquidation.
>
> (c-ii) to lease to other societies or to Government undertaking with prior approval of the Registrar, the property of the society to run the same business as that of the society under liquidation.

Hence sub Section (1) of Section 105 vest the power in the Liquidator to carry out actions and things which are mentioned in clause (a) to (o) of the said sub Section (1). However the said power is circumscribed by the fact that the Liquidator has to carry out the said things or actions under the general supervision, control and directions of the Registrar.

In so far as clause (c) is concerned, it confers the power on the Liquidator to sell the immovable and movable property and actionable claims of public auction or private contract. However having regard to sub Section (1) the said power would undoubtedly be circumscribed by the Liquidator having to carry out the same under the general supervision, control and direction of the Registrar.

In so far as clause (c-i) is concerned, it provides for transfer by sale assets valued at market price to a society registered with similar objects or to a Government undertaking. Hence clause (c-i) postulates that the assets of the society in liquidation can be transferred by sale to a society registered with similar objects.

In so far a clause (c-ii) is concerned, it provides for lease to be granted to other society or to a Government undertaking with the prior approval of the Registrar. Hence clause (c-ii) provides for lease to be granted to other assets or to the Government with the prior approval of the Registrar.

It would also be relevant to refer to Rule 89 of the MCS Rules 1961 which provides for the appointment of the Liquidator, the procedure to be followed and the powers to be exercised by him and especially sub Rule 14 thereof. The said Rule 89(14) is reproduced for the sake of ready reference:

> 89. Appointment of Liquidator and the procedure to be followed and powers to be exercised by him.
>
> 89(14)(i) The Liquidator shall not exercise the powers under clauses (c), (d), (e), (f), (g), (h) and (k) of Section 105 without the prior approval of the Registrar.
>
> (ii) An appeal against the order of the Liquidator under clauses (a), (b), (I), (j), (l), (m) and (n) of Section 105 shall lie to the Registrar.

A reading of the sub Rule therefore discloses that the Liquidator shall not exercise powers under clause (c) of Section 105 without the prior approval of the Registrar.

14 It is in the context of the aforesaid statutory regime that the sale effected in favour of the Respondent No.8 would have to be looked at. The contention of the Learned Senior Counsel appearing on behalf of the Respondent No.8 that the sale carried out in favour of the said Respondent is

within the ambit of Section 105(1)(c) would be dealt with a bit later.

15 As indicated above the cause for winding up of the said CESS Ltd was the fact that the purpose of registering the CESS Ltd no more survived as the production and distribution of electricity was taken over and is being carried out by the MSEDCL which is an of shoot of the MSEB. It is required to be noted that the statutory regime applicable requires a particular procedure to be adopted for liquidating the assets of the society in liquidation. The provisions of Section 105(1)(c) and clauses (c-i) and (c-ii) have already been adverted to hereinabove. Notwithstanding the statutory mandate as comprised in the said provisions, the Respondent No.7 Liquidator entertained the application filed by the Respondent No.8. The background to entertain the application was the fact that the Respondent No.8 in its General Body Meeting dated 27-7-2012 had resolved to purchase the land in question belonging to the CESS Ltd. In furtherance thereof the founder of the Respondent No.8 i.e. the Local MLA Mr. Sadashivrao Patil had addressed a letter dated 18-9-2012 to the then Hon'ble Minister for Co-operation in which letter he had mentioned the factum of the Respondent No.8 being interested in purchasing the land in question. The said letter seems to have had its effect in as much as the then Hon'ble Minister for Co-operation made an endorsement on the said letter whereby the Commissioner of Co-operation was directed to expedite the process of consideration of the application of the Respondent No.8. The said

endorsement as it were had the effect of the wheels of the Co-operation Department moving fast and in a particular direction. We have already adverted to the correspondence exchanged between the Additional Registrar and the Deputy Registrar concerned, the Deputy Registrar and the Assistant Registrar Vita and the Assistant Registrar and the Official Liquidator Shri Bodare. The said correspondence and the manner in which it was exchanged between the parties leave no room for doubt that the whole matter was being processed in a great hurry so to effect the sale in favour of the Respondent No.8.

16 Now coming to the contention raised on behalf of the Respondent No.8 by the Learned Senior Counsel Mr. Dhakhephalkar, it is required to be noted that the sale in the instant case is by a private treaty. The contention of the Learned Senior Counsel that the sale by a private treaty can be justified on the touchstone of Section 105(1)(c) cannot be accepted. As we have already observed hereinabove that the power to sell by private treaty is circumscribed by the fact that the same has to be under the directions, supervision and control of the Registrar. In so far as the said aspect is concerned, it is required to be noted that the Liquidator has by his letter dated 4-2-2013 has in terms sought guidance from the Assistant Registrar as to whether the sale could be effected in favour of the Respondent No.8. In reply to the said letter the Assistant Registrar has only stated that action as deemed fit may be taken

under Section 105 by the Official Liquidator. Hence there was no sanction of approval granted by the Assistant Registrar to the sale being effected in favour of the Respondent No.8. Whether the sanction of the Assistant Registrar who is at the lowest rung of the Registrars in the Co-operative Department is enough, when there is a Deputy Registrar, a Divisional Joint Registrar and an Additional Registrar, above him is another matter. This is not a case where the land in question was sought to be sold by public auction and on account of no response or poor response the modality of sale by private treaty was required to be adopted. This is also not a case where sale is effected to a society registered with similar objects at least that is not the case of the Respondent No.8. In our view therefore the contention of the Learned Senior Counsel appearing on behalf of the Respondent No.8 that the sale can be justified on the touchstone of Section 105(1)(c) cannot be accepted and would have to be rejected.

17 What stares us in the face in the instant case, is the fact that there seems to be an unseemly and unholy haste in effecting the sale in favour of the Respondent No.8 without holding a public auction. In the said process the statutory regime has been thrown to the winds. The sale effected in favour of the Respondent No.8 cannot therefore be said to be in consonance with Section 105(1)(c) of the MCS Act. We are constrained to observe that it is only because of the meddling and the influence exercised by the local MLA

who is the founder of the Respondent No.8 that the sale has been effected in favour of the Respondent No.8. In our view such a conduct on the part of the Liquidator who holds the property in trust till the liquidation process is complete, cannot be countenanced. The Learned Senior Counsel appearing for the Respondent No.8 laid much store on the fact that the Liquidator Respondent No.7 had effected the sale in favour of the Respondent No.8 after obtaining three valuation reports. In view of the said contention, we deem it appropriate to deal with the said valuation reports.

In so far as the certificate by the sub-Registrar is concerned, the value mentioned therein is Rs.4050/- per sq.mtr which is the ready reckoner rate applicable to the area in which the land in question is situated. It is well settled by a Judgment of the Division Bench of this Court that the rates mentioned in the ready reckoner are only for the purpose of payment of stamp duty and cannot be said to reflect the true market value of the land in question.

Now coming to the second report, the same is of one S. P. Taywade Patil. Suffice it would be to state that the valuer has valued the land in question @ Rs.8000/- per sq.mtr. and the total valuation is Rs.1,17,22,200/-. Hence there is a quantum rise in the valuation in so far a the second report is concerned which is of the same contemporaneous time as the certificate issued by the sub-Registrar.

The third valuation report is of one Shekhar L Thite. The said valuer has valued the land at Rs.10,000/- per sq.mtr. and after discounting the value by 10% for the reasons mentioned in his report, he has arrived at the total value of the land at Rs.1,16,27,100/-.

18 Hence a reading of the said valuation reports show that there is a variance between the two valuers who have valued the land in question. Apart from the fact that the ready reckoner rate mentioned is Rs.4050/- per sq.mtr., a judicial notice can be taken of the fact that if an auction is held chances are that the offers received would be more than the valuation done by the valuers. The valuation made by the valuers can only be a barometer on the basis of which an auction can be held and an upset or reserve price may be fixed. The said valuation cannot be taken to be so sacrosanct that a property has to be alienated on the basis of the said valuation report especially having regard to the fact that in the instant case the land in question has to be liquidated for the benefit of the shareholders. In our view, therefore, though the Liquidator has obtained three valuation reports it would not grant any credibility or legality to the action of the sale carried out by the Liquidator by private treaty. The land in question as stated by the Petitioners in the above Petition is situated in Vita which is a jewellery hub as large number of people are involved in the manufacture and sale of gold jewellery. It is the case of the Petitioners that in the vicinity of the land in question there are various educational institutions and therefore the land in question would fetch a much

higher price than the amount for which the same has been sold to the Respondent No.8. The Apex Court has from time to time held that tendering or public auction is the modality which results in the property in question fetching the best market price.

19 The upshot of the aforesaid discussion would be that the sale effected in favour of the Respondent No.8 by the Liquidator by private treaty cannot be sustained in view of the fact that the sale has been carried out in breach and violation of Section 105(1)(c) of the MCS Act. Since the Sale Deed dated 22-2-2013 is a result of the orders passed by the Respondent No.6 and the Respondent No.7, resultantly the Sale Deed dated 22-2-2013 would also have to be set aside. The Petition is accordingly allowed and the following directions are issued:

(i) The communication / order dated 6-2-2013 issued by the Respondent No.6, the communication / order dated 18-2-2013 passed by the Respondent No.7 Official Liquidator Exhibit O, would stand quashed and and set aside.

(ii) The Sale Deed dated 22-2-2013 for the reasons aforestated is declared as illegal and void. The same would resultantly also stand set aside.

(iii) The Respondent No.7 is directed to hold a public auction by following the mandate of Section 105(1)(c) of the MCS Act. The same to be done within 8 weeks from date.

(iv) The Respondent No.8 would be entitled to the refund of the amount of Rs.1,20,50,000/- from the Official Liquidator with accrued interest if any. If the Respondent No.8 does not claim the said amount, the same would be at its own peril and the authorities would not be liable for payment of any interest.

(v) The amount of Rs.25 lacs deposited by the Petitioners in this Court would be refunded to the Petitioners on an application made in that behalf with accrued interest if any.

20 Rule is made absolute in the aforesaid terms with parties to bear their respective costs of the Petition.

21 At this stage, the Learned Counsel appearing for the Respondent No.8 seeks stay of the instant order. In view of the fact that we have granted 8 weeks time to the Official Liquidator to carry out the direction as contained in the instant order, the need for granting stay is obviated.

[SARANG V KOTWAL, J] **[R.M.SAVANT, J]**