

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5935 OF 2018

Swastik Trading Company

Petitioner

Versus

Kaurur Vysys Bank & another

Respondents

Mr.V.J.Dixit, Senior Counsel i/by Mr.S.V.Dixit, advocate for the petitioner.

Mr.P.B.Paithankar, advocate for respondent no.1.

CORAM : R.M.BORDE &

MANGESH S. PATIL, JJ.

DATE : 11th SEPTEMBER, 2018

PER COURT:

1 Petitioner is objecting to the auction sale notice dated 23.05.2018 and auction held on 02.06.2018.

2 It is not a matter of dispute that petitioner is a borrower and owe large amount of dues to respondent no.1-Bank. The stock of pulses in the godown of respondent no.2 is pledged to respondent no.1 as security against loan. Respondent No.1 has taken steps and sold out part of the stock and issued sale notice on 23.05.2018 and conducted auction on 02.06.2018.

3 According to the respondents, the amount recoverable from the petitioner is not fully recovered and amount recoverable is to the tune of Rs.1,54,06,000/-. Petitioner was specifically put as to whether he is willing to deposit atleast 25% of the amount recoverable by Respondent No.1-Bank in order to demonstrate its

bona fide. However, petitioner has expressed inability to deposit the amount.

4 In the circumstances, since petitioner is invoking equitable jurisdiction of this Court and is not willing to abide by the condition in respect of deposit of amount, according to us, writ petition need not be entertained in exercise of extraordinary jurisdiction under Article 226 of the Constitution.

5 Apart from this, according to us, *prima facie*, auction conducted by respondent no.1 is within four-corners of statutory provisions. If, at all, the petitioner has any grievance, it would be open for it to avail of alternate remedy available in law.

6 For the reasons recorded above, writ petition does not deserve any favourable consideration and same is dismissed. Civil Application, if any, does not survive and stands disposed of.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

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