

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

WRIT PETITION NO. 11207 OF 2018

Godavari Laxmi Cooperative Bank Ltd.,
through Managing Director Petitioner

Versus

The State of Maharashtra & Ors. Respondents

..
Shri. S. S. Deve, Advocate for the petitioner
Shri. S. B. Pulkundwar, AGP for respondent/State
Shri. Ajay Talhar, Advocate for respondent No. 3
..

CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, JJ.

DATE : 9TH APRIL, 2019

ORAL ORDER:

1. The petitioner has challenged the order passed by the Dy. Registrar, Cooperative Societies, dt. 24.08.2018 deciding the Up-Set Price.

2. Shri. Deve, learned counsel for the petitioner – Bank submits that, it was not open for the Dy. Registrar to decide the Up-Set price. It is the Special Recovery officer who has to take up the

proceedings for sale of the property. The Dy. Registrar has exceeded his jurisdiction.

3. Shri. Talhar, learned counsel for respondents No. 3 submits that, the respondents have paid the amount as per the recovery certificate and if there is any shortfall, the respondent is agreeable to pay the same.

4. As the petitioner is entitled to recover the amount as per the recovery certificate issued by the Dy. Registrar, Cooperative Societies dt. 11.12.2013. As per the recovery certificate, the respondent is liable to pay Rs. 16,76,349.38 and interest @9% p.a. from 01.11.2003 on the amount of Rs. 15,00,000/-. The respondent is also liable to pay expenses of Rs. 9339/-.

5. There are rival contentions about the calculations of interest by the petitioner – Bank. Under the order of this Court dt. 18.02.2019, the respondent has deposited an amount of Rs. 11,88,711/-.

6. We direct the parties to present themselves before the Commissioner of Cooperation. The Commissioner of Cooperation

shall determine the amount payable by the respondents to the petitioner as per the recovery certificate issued by the Dy. Registrar dt. 11.12.2013. The petitioner and respondent No. 3 shall present themselves before the Commissioner of Cooperation on 25.04.2019. The Commissioner shall calculate the amount due and payable by the respondent No. 3 to the petitioner-bank as per the recovery certificate and adjusting the amount paid by the respondents to the petitioner.

7. The Commissioner shall take decision upon it within three months from the date of appearance of the parties. The parties may place the documents on which they propose to rely.

8. The petitioner is entitled to withdraw the amount of Rs. 11,88,711/- deposited in this Court by respondent No. 3.

9. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE