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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4951 OF 2012

M/s. Aditya Developers	..Petitioner
Versus	
M/s. Paranjape Construction Co. & Ors.	..Respondents

**WITH
WRIT PETITION NO.1699 OF 2013**

Mr. Shrikant Ganpat Bidikar @ Chodankar	..Petitioner
Versus	
State of Maharashtra and others	..Respondents

**WITH
WRIT PETITION NO.5329 OF 2012
WITH
CIVIL APPLICATION NO.2380 OF 2012
IN
WRIT PETITION NO.5329 OF 2012**

M/s. Ada Constructions & Ors.	..Petitioners/ Applicants
Versus	
State of Maharashtra and others	..Respondents

**WITH
CIVIL APPLICATION NO.1200 OF 2013
IN
WRIT PETITION NO.5329 OF 2012**

Bank of Baroda	Applicant
Versus	

M/s. Ada Constructions & Ors.

....Respondents

WITH
WR5IT PETITION NO.6526 OF 2012

Luis Anton Rodrigues (sincd
Deceased) Through Lrs, Smt.
Keshav Luis Rodrigues and Ors

...Petitioners

Versus

Collector Thane and Ors.

..Respondents.

WITH
WRIT PETITION NO.7993 OF 2013

M/s. Paranjape Construction Co. & Ors.

..Petitioners

Versus

State of Maharashtra and others

..Respondents

WITH
CIVIL APPLICATION NO.870 OF 2016
IN
WRIT PETITION NO.7993 OF 2013

Smt. Deepa Damodar Mahajan

... Applicant.

V/s

M/s Paranjpe Construction and Others

.... Respondents.

WITH
CIVIL APPLICATION NO.871 OF 2016
IN
WRIT PETITION NO.7993 of 2013

Smt. Suchitra Surendra Sheth

.... Applicant.

V/s

M/s Paranjpe Construction and Others

.... Respondents.

WITH
WRIT PETITION NO.11599 OF 2012

Shrinivasan Ramchandran Iyer

..Petitioner

Versus

M/s. Paranjape Construction Co. & Ors.

..Respondents

WITH
WRIT PETITION NO.4929 OF 2012
(Not on board)

Daji Tukaram Paradkar

..Petitioner

Versus

M/s. Paranjape Construction Co. & Ors.

..Respondents

Mr. Rajnani Varma I/by M/s. Navdeep Vora & Associates for the Petitioners in WP No.4951 of 2012.

Mr. A. S. Raktade I/by Mr. S. D. Paithane, Advocate for the Petitioner in WP No.1699 of 2013.

Mr. Kishor Patil I/by S. K. Legal Associates, Advocate for the Petitioner in WP No.5239 of 2012.

Mrs. Neeta Karnik a/w Ms. Payal Jain, Advocate for the Petitioner in WP No.6526 of 2012.

Mr. V. V. Pai, Advocate for the Petitioner in WP No.4929 of 2012.

Mr. P. G. Sawant, AGP for Respondents in all the Writ Petitions.

Mr. Y. S. Jahagirdar, Senior Advocate a/w Mr. Atul G. Damle, Senior Advocate, Ms. Jyoti Sinha, Mr. Himanshu Vidhani, Mr. C. Dasgupta I/by Khaitan & Co., Advocate for Respondent No.6 in WP No.4951 of 2012, WP No.6526 of 2012 & for Respondent No.5 in WP No.5328 of 2012.

Mr. U. P. Warunjikar a/w Mr. S. A. Pilankar, Advocate for intervenors in all the Writ Petitions.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 6th FEBRUARY, 2019

P.C.:-

1] All these Petitions are filed either by original judgment debtor against whom the competent court has passed a decree for recovery of amount or purported developers, persons who claim to have certain rights against the original judgment debtor etc.

2] The basic challenge in the Petitions was that the auction which was being conducted by Tahsildar was not being conducted in fair and transparent manner and as such they had challenged the auction notice. Though the Court had permitted the auction to proceed, it was directed that no final decision be taken without obtaining leave of this Court. Accordingly, the auction sale has already been conducted by Tahsildar.

3] It is the contention of the Petitioners that valuation of the property was not properly done. Perusal of the affidavit filed by one Vishwas Gujar, Tahsildar, Vasai dated 20/6/2012 would reveal that

the Tahsildar had initiated proceedings for recovery of dues on the basis of certificate issued under Section 25 of the Consumer Protection Act for recovery of dues payable to various flat purchasers, banks etc. The proceedings were initiated by Tahsildar on the basis of instructions issued to him by Collector, Thane. Perusal of the affidavit would reveal that Revenue Recovery Certificates received till date were to the tune of Rs 24,16,52,142/-. Perusal of the affidavit would also reveal that a detail procedure was followed by Tahsildar with regard to valuation of the property etc. It would further reveal that public auction was conducted after giving due publicity to the auction by publishing the same in various news-papers like Lokmat, Sakal, Jaglya, Soshitanche Samarthan and Apla Upnagar. The same was done vide notice dated 16/5/2012. However, Tahsildar noticed that while issuing notice on 16/05/2012, he had not observed the provisions of Sections 193 and 194 of the Maharashtra Land Revenue Code and there was some printing mistake with regard to information of the land in one of the local news-papers viz Jaglya. Thereafter, the auction was kept on 27/06/2012. By a subsequent affidavit filed by the same Vishwas Gujar dated 10/07/2012, he has given details as to

how he had conducted the auction process. Paras 4, 5, 6 and 7 of the said affidavit would show the details regarding the auction conducted by him.

4] Taking into consideration the aforesaid two affidavits filed by Tahsildar, we are prima facie of the view that no fault could be found with the procedure adopted by Tahsildar in conducting the auction. Insofar as claim of some of the Petitioners with regard to improper valuation of the property is concerned, we do not find that such inquiry would be permissible in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Apart from that, it has to be noted that Section 210 of the Maharashtra Land Revenue Code itself provides remedy to the party to apply to the Collector for setting aside the auction sale on complying with certain conditions. Indisputably, all these Petitions were filed prematurely at the stage of notice of auction. The auction has been conducted in accordance with the procedure, as could be found from the affidavits of the Tahsildar mentioned hereinabove.

5] We are therefore of the view that the issues raised in these

Petitions cannot be decided without going into disputed questions of fact and law. In any case, Petitioners have an alternative remedy under Section 210 of the Maharashtra Land Revenue Code.

6] In that view of the matter, Petitions are rejected, relegating the Petitioners to the alternative remedy available to them in law. The authority who is the Collector, would give benefit of Section 14 of the Limitation Act, if proceedings are initiated by any of the Petitioners under section 210 of the Maharashtra Land Revenue Code.

7] Since the Petitions are rejected and disposed of, Civil Applications do not survive and they are also disposed of.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)