

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.23986 OF 2019

Mr. Prem Singh Rajput

..Petitioner

Versus

State of Maharashtra & Ors.

..Respondents

Mr. Siddharth Samantaray i/by Mr. Nikhil R. Salvi, Advocate for the  
Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.1 & 2 – State.

Ms. Dimple Tejani i/by Medha Rane, Advocate for Respondent No.3.

CORAM : PRADEEP NANDRAJOG, C.J. &  
SMT. BHARATI DANGRE, J.

DATE : 19<sup>th</sup> NOVEMBER, 2019

P.C.

1] Flat bearing No.103-B, 1<sup>st</sup> Floor, Vrindavan Co-operative Housing Society Ltd., Mulund (W), Mumbai-400 080, was mortgaged by Jayesh Kishor Shah and Mrs. Meena Jayesh Shah to Capri Global Capital Limited which enforced the security under the SARFAESI Act, 2002. At an auction held on 14<sup>th</sup> June 2019, Petitioner's bid in sum of ₹ 1,22,00,000.00 (₹ One Crore Twenty Two Lakh Only) was accepted. Petitioner has deposited ₹ 30.5 lakhs being 25% of the bid amount. The Petitioner is willing to deposit balance 75% but is handicapped on account of a letter written by the Sale Tax Officer to the Co-operative Society on 30.10.2018 informing that Sale Tax dues in sum of ₹ 2,21,90,90/- are due and payable from

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the partners of the firm Royal Impex and the flat was attached under the Maharashtra Land Revenue Code, 1966.

2] Suffice it to state whether Sales Tax dues would be a first charge on the flat or the dues of Capri Global Capital Limited would be a first charge has no concern with the sale of the flat and the sale price realised. Insofar as the Petitioner is concerned, the Petitioner would be entitled to possession and title of the flat free from any sales tax encumbrance. *Inter se* State of Maharashtra through its Sales Tax Officer and Capri Global Capital Limited the issue has to be sorted out concerning disbursement of the sale price.

3] Declaring as above, we quash the letter dated 30.10.2018 addressed by the Sales Tax Officer to Vrindavan Co-operative Housing Society Ltd.

4] The Writ Petition is disposed of.

**Balaji G.  
Panchal**

Digitally signed by  
Balaji G. Panchal  
Date: 2019.11.20  
10:18:50 +0530

**SMT. BHARATI DANGRE, J**

**CHIEF JUSTICE**