

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

WRIT PETITION STAMP NO. 28153 of 2019

Mulund Kavita Kiran Co-op. Hsg. Soc. Ltd.Petitioner
versus
Kokan Mercantile Co-operative Bank Ltd. and ors.Respondents

Mr. Mandar Limaye, advocate for the petitioner.
Ms. R. M. Shinde, APP for the State.

**CORAM : RANJIT MORE &
N. J. JAMADAR, JJ.**

DATE : 22nd OCTOBER, 2019.

P. C. :

1. The petitioner claims to be the owner of the property mentioned at serial No.3 in the auction notice annexed at "Exhibit - E", page 50, to the petition. The petitioner submits that he has no concern with respondent No.1-Bank, in the sense that, he has neither taken loan nor stood a guarantor to anybody. Despite this, his property is being sold. Mr. Limaye, learned counsel for the petitioner, invited our attention to clause (4) of the terms and conditions of the auction notice and submitted that tomorrow i.e. on 23rd October, 2019, sealed bids would be opened and, therefore, he has approached this Court urgently.

2. The fact remains and the learned counsel for the petitioner does not dispute that there is a remedy of appeal against the auction

notice before the Debts Recovery Tribunal (for short “the DRT”). We are, therefore, not inclined to entertain this petition. The writ petition is, accordingly, dismissed.

3. It is made clear that the petitioner, however, is at liberty to challenge the said auction notice, by filing an appeal, before the DRT.

4. All rights and contentions of the respective parties are kept expressly open.

5. We further direct that the auction can be held, however, the same shall not be finalised for a period of two weeks from today, in order to enable the petitioner to approach the DRT.

6. After a period of two weeks as stipulated above, the interim order shall automatically stand vacated.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]