

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 964 OF 2020

Dr. Dattatray Nana Mali

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. G. T. Kanchanpurkar i/b Mr. Ramdas A. Shelke for the Petitioner.
Mr. Y. S. Khochare, AGP for the Respondent-State.

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

DATE : 7th FEBRUARY, 2020.

P. C. :

1. Request made for adjournment is declined for the reason there is nothing worthwhile for learned Counsel to make any submission on the pleadings laid in the Writ Petition.
2. The Petitioner admits having obtained a loan from the 4th Respondent. The Petitioner admits having mortgaged property bearing City Survey No. 8338/1A/1/2. The Petitioner admits that he defaulted in repayment of the loan. The Petitioner states that the 4th Respondent took resort to proceeding under Section 14 of the SARFAESI Act, 2002 and on 23.02.2017 the learned District Magistrate appointed the Tahasildar to take possession of the secured asset. The Petitioner admits that the Tahasildar issued a notice to him on 02.03.2017 and that he handed over vacant possession of the property to the Tahasildar on 15.03.2017. The Petitioner admits that thereafter the property was put

to sale. The Petitioner admits that the 5th Respondent was the successful bidder and paid the bid amount. The Petitioner pleads that after the sale took place he wrote letters to the bank. The Petitioner prays that the auction sale dated 06.11.2017 be cancelled and a direction be issued to the bank to receive from the Petitioner the loan amount.

3. No such relief can be granted by this Court. If the Petitioner wants to challenge the auction sale, he has to plead the manner in which the auction sale was vitiated and the remedy has to be under the SARFAESI Act, 2002 by filing substantive Petition before the Debt Recovery Tribunal.

4. The Petition is dismissed.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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