

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 1437 OF 2020

TJSB Sahakari Bank Ltd.

.. Petitioner

Vs.

State of Maharashtra & Anr.

.. Respondents

Mr. Kishor P. Vig a/w. Mr. Monish K. Vig for the Petitioner.

Ms. Nisha Mehra, AGP for Respondent No.1 -State.

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

DATE : 11th FEBRUARY, 2020.

P. C. :

1. The issue concerning priority of claim by a secured creditor on the immovable property of an entity qua which entity sales tax dues are pending has been decided by this Bench on 13.12.2019 in Writ Petition No. 1039 of 2017 ASREC (India) Limited vs. State of Maharashtra & Ors.

2. Noting that Section 26E of the SARFAESI Act, 2002 was not brought into force but a *pari materia* provision in RDB Act, 1993 was brought into force, referring to decision rendered in other High Courts, it was held by this Court that a secured creditor would have priority of interest over the mortgaged asset vis-a-vis tax dues of the State Government.

3. Following the law declared in the said Judgment, we declare that the sale of the mortgaged asset by the Petitioner to realise its dues was

legal and the notice dated 22.08.2017 is quashed.

4. Needless to state if there is a balance surplus amount from the sale proceeds of the mortgaged asset, the same has to be remitted by the Petitioner to the Sales Tax Authorities and for which the Sales Tax Authorities in the State of Maharashtra can take up the issue with the Petitioner.

5. The Petition is disposed of.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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by Arjun M.
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