

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.3800 OF 2019

Xander Finance Private Limited

..Petitioner

Versus

State of Maharashtra & Ors.

..Respondents

Mr. Rohit Gupta a/w Mr. Ayush Agrawal, Mr. S. Das i/by
Krishnamurthy & Co., Advocates for the Petitioner.

Ms. P. H. Kantharia, Govt. Pleader for Respondent Nos.1 & 2 - State.

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

DATE : 23rd JANUARY, 2020

P.C.

1] The Tahsildar, Kurla has proceeded to give effect to orders passed by the authorities under RERA in applications filed by the flat purchasers to sell 8000 sq.mtrs. land comprised in CTS No.63A/5, 64D, Survey Nos.40/1/A, 41/1/A.

2] The grievance of the Petitioner which is a secured creditor and holds a lien by virtue of a mortgage in its favour qua the property sought to be auctioned is that auction notice does not disclose to the prospective bidder the lien of the Petitioner.

3] Learned counsel for the Respondents states that when the Tahsildar issued the notice inviting bids it was not to the knowledge of

the Tahsildar that dues of the Petitioner are payable by the owner of the property and the Petitioner has a security interest thereon.

4] The date of the proposed auction as per the notice is 27th December 2019.

5] We are informing that no auction took place on said date.

6] Thus, we dispose of the Petition directing as and when Tahsildar issues a fresh notice inviting bids, it would be indicated to the bidders that the dues of the Petitioner which are a charge over the property, because the property is mortgaged to the Petitioner, are also payable

7] Needless to state apportionment of the bid amount would be as per the order dated 19th March 2019 passed by Maharashtra Real Estate Appellate Tribunal.

8] No costs.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

Balaji
G.
Panchal

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by Balaji G.
Panchal
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