

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

946 CIVIL APPLICATION NO.3625 OF 2021
IN AO/37/2018

RAJLAXMI INFOTECH PRIVATE LTD. THR ITS
DIRECTOR VISHAL MANOHARRAO BUDHWANT
VERSUS
VAIDHYANATH URBAN CO-OPERATIVE BANK LTD.
PARALI-VAIJAINATH THR ITS GENERAL MANAGER

Mr S.G. Jadhavar, Advocate for Applicant
Mr A.R. Joshi, Advocate for respondent/sole

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 28th JULY, 2021

PER COURT:-

1. Heard Mr S.G. Jadhavar, learned counsel for the applicant and Mr A.R. Joshi, learned counsel for the respondent.
2. Perused the earlier order passed by this Court dated 16th March, 2021 and 24th March, 2021. This Court vide order dated 16th March, 2021 permitted the authorities to go ahead with the scheduled auction but shall not finalize the highest bid till the next date. That order came to be extended up to 6th April, 2021.
3. Now, it is apprehension of the applicant that the respondent-bank is also going to auction the property which is at Chikhali, Dist. Buldhana. That property is covered by the order passed by this Court in Civil Application No. 12256/2018 with Civil Application No. 6073/2018 and Appeal from Order No. 37/2018 dated 4th October, 2018.

4. Mr Jadhavar, learned counsel for the applicant invited my attention to the said order, more particularly para No. 9 and submitted that the respondent-bank cannot auction the property situated at Chikhali, Dist. Buldhana.

5. Mr Joshi, learned counsel for the respondent-bank submits that this application is itself not maintainable. The property which is put for auction situated at Chikhali, Dist. Buldhana, is outside territorial jurisdiction of this Court. He submits that the order dated 4th October, 2018 referred above, has not protected the property situated at Chikhali, Dist. Buldhana. The property situated at Chikhali, Dist. Buldhana can be very well auctioned and there is no legal hurdle.

6. Having regard to the submissions of the learned counsel for both the sides, I have gone through the order passed by this Court dated 4th October, 2018 in the above referred matter. Para No. 9 of the order is important which reads thus -

9. In view of the above, this appeal from order is partly allowed by continuing the relief granted to the appellant by this Court vide order dated 10.7.2018. The respondent/Bank is permitted to withdraw the entire deposited amount from this Court along with the accrued interest, if any and on this condition the appellant would stand protected against coercive steps pursuant to the order of the trial Court rejecting the plaint under Order VII Rule 11 of the CPC. The appellate Court shall, therefore, decide RCA No. 97 of 2013 as expeditiously as possible and in any case on/or before the 28.2.2019.

7. On careful study of the above referred order, more particularly para No. 9, it nowhere states that said order has covered the property situated at Chikhali, Dist. Buldhana. The property situated at Chikhali, Dist. Buldhana is outside the territorial jurisdiction of this Court.

8. On perusing the above referred order, it is nowhere stated about the description of the property situated at Chikhali, Dist. Buldhana, which is also granted protection by this Court. Under these circumstances and in view of the earlier order passed by this Court, I am not convinced to grant stay to the auction.

9. Civil Application stands rejected and accordingly disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

mta