IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5077 OF 2021

Pandurang Ramchandra Kale } Petitioner
Versus
The Maharashtra State }
Cooperative Bank Ltd. and Ors. } Respondents

Mr.Yogesh Pande with Mr.C.M.Lokesh for the petitioner.

Mr.Suryajeet P. Chavan i/b. Ms.Varsha Palav for respondent no.1.

Mr.M.M.Pable-AGP for State.

CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.
DATE :- SEPTEMBER 3, 2021

PC :-

1. The petitioner challenges a tender notice dated 5th August 2021 putting up a secured asset for lease, issued in furtherance of the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "the SARFAESI Act" for short) and the Rules framed thereunder.

2. Time and again, the Supreme Court has cautioned the High Courts not to derail the procedure for redress engrafted in the SARFAESI Act by entertaining writ petitions and interfering with proceedings initiated under the SARFAESI Act and the Rules framed thereunder, in the absence of any substantial prejudice or gross injustice having been suffered by a borrower. This is the law laid down by the Supreme Court in (i) **(2020) 10 SCC 659** [L & T Housing Finance Limited vs.

This order is corrected pursuant to the order of speaking to minutes dated 6/9/2021.

Trishul Developers and Anr.]; (ii) **(2020) 4 SCC 440** [K. Virupaksha and Anr. vs. State of Karnataka and Anr.]; (iii)**(2019) 2 SCC 198** [Hindon Forge Private Limited and Anr. Vs. State of Uttar Pradesh through District Magistrate, Ghaziabad and Anr.; (iv) **(2018) 3 SCC 85** [Authorized Officer, State Bank of Travancore Vs. Mathew K.C.] and (v) **(2010) 8 SCC 110** [United Bank of India vs. Satyawati Tondon and Ors.]

3. Appearing in support of the writ petition, Mr.Yogesh Pande, learned advocate submits that the secured asset, which has been put up for lease by public tender, has been grossly undervalued.

4. If indeed that be so, such point can be raised by the petitioner in an application under section 17 of the SARFAESI Act before the Debts Recovery Tribunal having jurisdiction and if the Tribunal is satisfied that any provision of the SARFAESI Act or the Rules framed thereunder has been contravened, the Tribunal has been conferred with wide powers to restore possession of the secured asset in favour of the borrower.

5. In view thereof, we are not inclined to entertain this writ petition. The writ petition stands dismissed. There shall be no order as to costs.

6. This order shall, however, not preclude the petitioner to pursue his remedy under the SARFAESI Act in accordance with law.

(G. S. KULKARNI, J.) **(CHIEF JUSTICE)**

PRAVIN DASHARATH PANDIT

Digitally signed by PRAVIN DASHARATH PANDIT Date: 2021.09.06 18:54:22 +0530

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