

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2668 OF 2021
IN
WRIT PETITION NO. 5568 OF 2021**

Indus Orgo Farmer Allied Industries Pvt. Ltd.	}	
	}	Applicant
In the matter between		
M/s. Shreevardhan Agro Pvt. Ltd.	}	
	}	Petitioner
Versus		
Solapur District Central Co-operative Bank Ltd.	}	
	}	Respondent

**WITH
INTERIM APPLICATION NO. 2667 OF 2021
IN
WRIT PETITION NO. 5568 OF 2021**

Aditya Raj Sugar Private Limited	}	
	}	Applicant
In the matter between		
M/s. Shreevardhan Agro Pvt. Ltd.	}	
	}	Petitioner
Versus		
Solapur District Central Co-operative Bank Ltd.	}	
	}	Respondent

**WITH
WRIT PETITION NO. 5568 OF 2021**

M/s. Shreevardhan Agro Pvt. Ltd.	}	
	}	Petitioner
Versus		
Solapur District Central Co-operative Bank Ltd.	}	
	}	Respondent

Mr. Ashutosh M. Kulkarni with Mr. Sarthak S. Diwan i/b. K. Lawpracts LLP for the applicant in IA/2668/2021.

Mr. Harshad Rathod for the petitioner.

Mr. Suryajeet P. Chavan i/b. Mr. Vaibhav A. Sugdare for the applicant in IA/2667/2021.

Mr. I. M. Khairdi i/b. Mr. Umesh R. Mankapure for the respondent Bank.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- OCTOBER 5, 2021

PC :-

IA/2668/2021

1. The applicant in this application for intervention claims to be the auction purchaser of a secured asset. The petitioner is a rival auctioneer, who failed in the auction process. We are of the considered opinion that should relief claimed in the writ petition be granted, the right of the applicant would be adversely affected. In such view of the matter, the application for intervention is allowed. No costs.

2. Office is directed to incorporate necessary amendment in the cause title of the writ petition by impleading the applicant as additional respondent.

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3. The writ petition is now taken up for hearing. It appears that the petitioner is aggrieved because of certain acts of the secured creditor in not completing the sale of the secured asset in the manner required by the Security Interest (Enforcement) Rules, 2002.

4. Having regard to the provisions of section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "the SARFAESI Act" for short) read with section 13(4)(a) thereof, the petitioner would have the locus standi to approach the jurisdictional Debt Recovery Tribunal with an application if, at all, the secured creditor, as it is sought to be claimed, has proceeded to dispose of the secured asset by sale in a manner contrary to the said Rules. Since the sale certificate has not yet been issued in favour of the added respondent, the period of limitation to approach the Debt Recovery Tribunal may not have yet expired. We, therefore, dispose of this writ petition granting liberty to the petitioner to pursue its remedy before the Tribunal under section 17 of the SARFAESI Act in accordance with law. No costs.

5. All contentions are left open.

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6. This is an application for intervention at the instance of the borrower. We do not see any reason to entertain this application having regard to the remedy made available to the

borrower by the SARFAESI Act. The application stands dismissed with the observation that the borrower shall be at liberty to pursue its remedy before the Tribunal.

SALUNKE
J V
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by SALUNKE J V
Date: 2021.10.06
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(M. S. KARNIK, J.)

(CHIEF JUSTICE)