

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.504 OF 2021

Kishor Rambhau Jugade and others ... Petitioners

- Versus -

The Authorised Officer, The Yavatmal
Urban Cooperative Bank Limited
and others ... Respondents

Shri M.P. Naidu, Advocate for Petitioners.

Shri A.H. Lohiya, Advocate for Respondent No.1.

CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.

DATE : 27 JANUARY 2021

P.C. :

Heard learned Counsel for the parties.

2) The Petitioners have challenged the public auction notice issued by the Respondent No.1 Bank under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The first and obvious question that arises is of alternate remedy available to the

Petitioners before the Debt Recovery Tribunal. The contention of Shri Naidu, learned Counsel for the Petitioners, that the Petitioners are neither borrowers nor guarantors has been repelled by Shri Lohiya, learned Counsel for the Respondent No.1 Bank, relying upon the decision of the Apex Court in the case of *United Bank of India vs. Satyawati Tondon and others*¹

3) The learned Counsel for the Petitioners then submits that the auction is scheduled on 29 January 2021 and if the Petitioners approach the Debt Recovery Tribunal, their application will become infructuous.

4) This apprehension is unwarranted. The scheme of the said Act and the Rules framed thereunder postulates deposit of 25% of the amount by the successful bidder at the time of auction and remaining 75% of the amount thereafter within a stipulated period. Therefore, the Petitioners have sufficient time to approach the Debt Recovery Tribunal. However, we make it clear that in case the Petitioners approach the Debt Recovery Tribunal within a period of one week and auction does take place, the result of the auction shall be subject to the application that the Petitioners will file before the Recovery Debt Tribunal. The request of the learned Counsel for the Respondent Bank that the Petitioners should be directed to deposit some amount is left

1 2010 LawSuit (SC) 518

open to be agitated before the Debt Recovery Tribunal. With these observations, Writ Petition is disposed of.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

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Jeswani

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