

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2326 OF 2021

Maharashtra State Co-operative Bank Ltd. ... Petitioner

Versus

The State of Maharashtra through Registrar and
Commissioner for co-operation, Pune and others ... Respondents

Mr. S.S. Panchpor a/w Mr. Mayur Jadhav i/by Ms. Radhika Panchpor
for Petitioner-Applicant

Mr. V.S. Gokhale, "B" Panel Counsel for the Respondent-State.

Mr. Rahul P. Kasbekar a/w Mr. Adesh Patil i/by M.B. Patil for
Respondent No.4.

Mr. V.H. Narvekar, for Respondent No.5 (Proposed).

CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.

DATE : 21 October 2022

P.C. :

Heard learned counsel for the parties.

2. The Petitioner- Maharashtra State Co-operative Bank Ltd. has challenged the communication dated 27 August 2019, issued by the Registrar and Commissioner of Co-operation, Pune, cancelling e-tender dated 8 June 2019. The Respondent No.4 – Pune District Central Co-operative Agricultural and Rural Multiple Development Bank was in liquidation and interim liquidator was

appointed by order dated 14 November 2013. Final order was passed on 27 November 2017. The Respondent No.1 by order dated 17 October 2016, permitted the District Deputy Registrar to dispose of the assets of Respondent No.4- Bank. Pursuant thereto, an advertisement of e-auction was to be held on 8 June 2016. The Petitioner participated in the said auction and was declared successful bidder being a sole bidder. The Petitioner deposited 25% of the amount within time stipulated. The grievance of the Petitioner is that by the impugned communication, without giving an opportunity to the Petitioner, e-auction was cancelled. The Petitioner contends that the Respondent-Commissioner did not have power to do so. Considering the special terms and conditions of the e-auction. The Petitioner has filed this petition on 17 March 2020. On 19 March 2020, the Division Bench directed the Respondent Nos. 1 to 3 not to confirm the sale if a subsequent auction is held.

3. Reply affidavit is filed on behalf of the State where it is stated that before the interim order is passed, second e-auction was held and it is confirmed in favour of the Pune District Central Co-operative Bank Ltd. By way of interim application, the Petitioner seeks to amend the petition to join the Pune District Central Co-operative Bank Ltd. as party and to incorporate necessary pleadings. The interim application for amendment is accordingly allowed. The Pune District Central Co-operative Bank Ltd. be made a party respondent in this petition forthwith as regards the

subsequent development narrated in the Interim Application is concerned, though already on record through an affidavit of State.

4. The learned counsel appears for Respondent No.5 for Pune District Central Co-operative Bank Ltd.

5. We have heard learned counsel for the parties.

6. After the impugned order was passed and before the interim order was passed in this petition, it appears that second auction has taken place and certain rights have been created in favour of Bank and development have taken place due to which it cannot be said that Pune District Central Co-operative Bank Ltd. would have no rights to be heard. The property that is put up for sale is of Respondent No.4-Bank which is in liquidation. It is for realising the assets of the Respondent No.4 and distribution of money including the payment of the employees. The consequences of this litigation is that auction itself is deferred, which is prejudicial to those who are waiting to receive the money from the auction. It appears that both the Petitioner and the added Respondent have deposited the amount are *prima facie* both seems to be in same position.

7. Though the auction also in favour of the Petitioner is of an earlier date, in view of this subsequent developments and the situation that has been taken place, we are of the opinion that

Respondent No.1- Commissioner of Co-operation give hearing to both Petitioner and added Respondent and take a decision as to the confirmation of the sale in respect of either the Petitioner or Respondent No.5, or to have inter-se bidding or to initiate new process altogether. This is however, left to the Respondent No.1– Commissioner to decide.

8. The Respondent No.1-Commissioner to call the Petitioner No.1 and added Respondent for hearing within next four weeks and thereafter take necessary decision as may be warranted in law and fact. Needless to state that till the Respondent No.1 – Commissioner takes decision and position as on date would continue.

9. Writ Petition disposed of in above terms.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)