

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

WRIT PETITION NO. 1608 OF 2023

Appasaheb Nalawade Gadhinglaj Taluka
Sahakari Sakhar Karkhana Limited, thr
the Manager ..Petitioner

V/s.

The Collector Kolhapur and Ors. ..Respondents

Mr. Milan Topkar a/w Pavitra Manesh for the Petitioner.

Mr. V.S. Gokhale, 'B' Panel Counsel for Respondent Nos. 1 and
2/State.

Mr. Vijay Vaidya a/w Mahendra Agvekar and Ms. Shraddha
Chavan for Respondent No.3 to 61.

**CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.**

DATE : 7th FEBRUARY 2023

P.C.

. Rule. Mr. Vaidya, learned Counsel waives service for the
Respondent Nos. 3 to 61. Mr. Gokhale, learned AGP waives
service for Respondent Nos. 1 and 2. Rule is made returnable
forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner has prayed for a writ of certiorari for quashing and setting aside the recovery certificate issued by the Labour Court and Auction Notice dated 24.01.2023 and for other reliefs.

3. The recovery certificate came to be issued on the application filed by the Respondent Nos. 3 to 61 for recovery of 25% back wages. The Revision Application filed by the Petitioner before the Industrial Court came to be rejected. Sometime in the year 2021, the Respondent No.1 attached the property of the Petitioner i.e. land bearing Survey No. 434/A, admeasuring 1,50,000 sq. meters out of total area of 2,25,400 sq. meters situated at Harali Khurd, Taluka Gadhinglaj, District Kolhapur. Respondent No.2 issued a public notice on three occasions, but could not succeed in auctioning the property of the Petitioner. On 23.01.2023, the Respondent No.2 fixed auction of the property of the Petitioner on 08.02.2023. On 02.02.2023, the Petitioner and Respondent Nos. 3 to 61 entered into an agreement whereby Respondents employees agreed to receive their dues in installments as mentioned in the said agreement. The parties have already forwarded the said agreement to Respondent Nos. 1 and 2 for information with the request to defer and cancel the proposed auction.

4. The learned Counsel for the Petitioner invited our attention to the said agreement entered into between the parties and also the letter dated 02.02.2023 addressed by the Petitioner as well as Respondent Nos. 3 to 61 to the learned Collector and Tahsildar forwarding a copy of the said agreement and requesting them to postpone the auction.

5. Since the Respondent Nos.1 and 2 have refused to take cognizance of the said letter dated 02.02.2023, the Petitioner has filed this petition.

6. The learned Counsel for the Respondent Nos. 3 to 61 has not disputed the execution of agreement between the Petitioner and his clients and also that joint letter was addressed by his clients along with the Petitioner to Respondent Nos. 1 and 2 with a request to defer the auction proposed to be held on 08.02.2023.

7. Mr. Gokhale, the learned AGP for Respondent Nos. 1 and 2 states that in view of the agreement already arrived between the Petitioner and Respondent Nos.3 to 61, this Court may pass an appropriate order as this Court may deem fit in respect of the action already initiated by Respondent Nos. 1 and 2 for auctioning the property of the Petitioner.

8. The impugned recovery action was taken at the instance of Respondent Nos. 3 to 61 in furtherance of the recovery certificate

issued by the Labour Court for recovery of the settlement amount of the back wages of Respondent Nos. 3 to 61.

9. It is common ground that the Petitioner and Respondent Nos. 3 to 61 have already entered into an agreement on 02.02.2023, whereby Respondent Nos. 3 to 61 have agreed to accept their dues in three installments i.e. in the month of February 2024, August, 2024 and February, 2025 in the installments of 30%, 30% and 40% respectively. A joint request is already made by the parties to the Respondent Nos. 1 and 2 to defer the auction.

10. We accordingly, pass the following order.

(i) Respondent Nos. 1 and 2 are directed to defer the proposed auction till 02.03.2025.

(ii) It is however made clear that if the Petitioner commits any default in making payment of any installments agreed under the said agreement dated 02.02.2023, the Respondent Nos. 3 to 61 would be at liberty to apply to Respondent Nos. 1 and 2 for taking action so as to enforce the recovery certificate issued by the Labour Court under the provision of the Maharashtra Labour Court Act.

(iii) If any such information is received from Respondent Nos. 3 to 61 by Respondent Nos. 1 and 2, Respondent Nos. 1 and 2 shall proceed with the auction already initiated which is subject matter of this petition after giving notice to the Petitioner.

11. Writ Petition is disposed of in the aforesaid terms. Rule is made absolute. No order as to costs.

12. Parties to act on an authenticated copy of this order.

M.M.SATHAYE, J.

R.D.DHANUKA, J.