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

WRIT PETITION NO. 4492 OF 2022

Tukaram Abaji Bhusare (deceased)

Through Legal Heirs

Dayanand Raghunath Bhusare

... Petitioner

V/s.

The State of Maharashtra

Through Assistant Registrar, Co-op.

Society and Ors.

... Respondents

None for the Petitioner

Mr. M.M. Pabale, AGP for the Respondent - State

Ms. Mrinal Shelar i/b. S.S. Patwardhan for Respondent No. 4-Bank

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 18 DECEMBER 2023

P.C. :-

None for the Petitioner.

2. The Petitioner has challenged the recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960. After the notice pursuant to the recovery certificate was issued, the Petitioner has filed this Petition.

3. By the order dated 13 April 2022, ad-interim relief was granted staying the auction notice. This Petition was last listed along with the Writ Petition No. 4493 of 2022 and other Petitions on 30 March 2023. The learned Counsel for the Respondents pointed out that the entire group was listed on 13 April 2022. On that date the same were disposed of granting liberty to the Respondent – Bank to proceed further. The order dated 13 April 2022 reads thus :-

“1. In all these matters, the banks will be at liberty now to proceed to dispose of the secured assets, namely the tractors, by public auction (but not by private treaty). The Petitioner Borrowers in each case will be at liberty to bid at such auctions. If those bids are successful, the lender banks will adjust the sale proceeds in accordance with law against the dues of the Petitioner Borrowers.

2. This does not, however, mean that the rest of the debt due from the Petitioner Borrowers to the lender banks is wiped out or compromised by receipt of the auction bid amount if the Petitioners are successful bidders. In other words, the banks will be at liberty to proceed for recovery of the remainder of the claim.

3. It will also be open to the Petitioners to approach the banks for a negotiated settlement in accordance with extant Rules, Guidelines, Policies and Circulars.

4. The Petitions are disposed of in these terms. There will be no order as to costs.

5. It goes without saying that the participation of any of the Petitioners in the auction bids is subject to the terms and conditions of the auction bids as applicable to all bidders.”

4. The present Writ Petition No. 4492 of 2022 however was not listed on that date when it ought to have been since it was appearing with the other Petitions throughout the proceeding. In the light thereof, this Writ Petition is disposed of with the same observations and directions as contained in the order dated 13 April 2022 as above.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
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