

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

WRIT PETITION NO.11256 OF 2023

RBL Bank Ltd & Anr.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

**Mr.Charles D'souza a/w Nikhil Rajani i/b V. Deshpande
& Co.,** Advocates for the Petitioner.

Ms.S. D. Vyas Addl. G.P. a/w N.M. Mehra, AGP for State-
Respondent.

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : OCTOBER 30, 2023

P. C.

1. The above Writ Petition has been filed seeking the following
reliefs:-

- "(a) That this Hon'ble Court be pleased to order and declare that by virtue of provisions of Section 26E of SARFAESI Act, the Petitioner has priority of charge on its secured assets viz; Industrial Plot At Gat No.113/A (Part), 113/B (Part), 114 (Part), Tardal, Taluka Hatkanangale, District-Kolhapur over and above the charge of the office of the Respondent No.2 or such other statutory authority;*
- (b) that this Hon'ble Court in exercise of its powers under Article 226 of the Constitution of India and be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order*

or Direction under Article 226 of the Constitution of India ordering and directing the Respondent Nos.2;

- (i) to forthwith withdraw the lien/charge/encumbrances/Boja noted by the office of the Respondent No.2 and carrying out necessary mutation/changes in the revenue records by the office of the Respondent No.3 in respect of the subject secured assets of the Petitioner viz. Industrial Plot At Gat No.113/A (Part), 113/B (Part), 114 (Part), Tardal, Taluka Hatkanangale, District-Kolhapur as described in Exhibit "A" hereto;*
- (ii) order and direct the Respondent No.3 to raise/delete/remove the charge/encumbrances/Boja recorded by the office of the Respondent No.2 and to discharge/denote in his record the alleged lien/charge/encumbrances/ Boja of the Respondent No.2 as recorded in respect of the secured assets of the Petitioner as described in Exhibit "A" where to so that the said property becomes free from encumbrances of the claim of the Respondent No.2 by carrying out necessary mutation entry;*
- (iii) forbid the Respondent No.2 fro interfering in any manner with the Petitioner disposing off the secured assets as described Exhibit "A" hereto and utilizing the realization and/or sale proceeds thereof towards the payment of the Petitioner Nos.1's outstanding dues due and payable by Respondent No. 4 to 7;"*

2. In the above Writ Petition there is an affidavit-in-reply filed on behalf of Respondent Nos. 1 and 2. In this reply, at paragraph 8, it is stated that as on today the Sales Tax Department has no outstanding dues against their dealer and who was the borrower of the Petitioner-Bank. They have further stated that when the Sales Tax Department became aware of the claim on the property, the office of the Sales Tax

issued a letter dated 5th October, 2023 to the Talathi office, Tardal, Taluka-Hatkanangale, District-Kolhapur to remove or dislodge the claim on the property. Accordingly the necessary change in the mutation entry is also made in the revenue records and the updated 7/12 extract is also annexed at **Exhibit-D** to the said affidavit-in-reply.

3. Mr.D'souza, the learned counsel appearing on behalf of the Petitioner submitted that in light of the affidavit filed by the State, nothing really survives in the above Writ Petition and the same can be disposed of as such.

4. In these circumstances, in light of the affidavit filed by the Sales Tax Department dated 23rd October, 2023 the above Writ Petition is disposed of as the mutation entry in relation to a claim made by the Sales Tax Department on the secured asset has now been duly deleted. However, there shall be no order as to costs.

5. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]