

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 517 OF 2019

Kuvar House Co-op Hsg. Socety

...Petitioners

Versus

The State Of Maharashtra And 2 Ors

...Respondents

None for petitioner

Mr. Manish Upadhye, AGP for respondent nos. 1 & 2.

Ms. Priyanka Bhadrashete for respondent no. 3.

Ms. Uma Sharma for respondent nos. 4A & 4D.

Mr. Vishal Hedge for respondent nos. 4B & 4C.

Mr. Ahmed Yusuf Turk, respondent no. 4A present.

Ms. Masooda Ashraf Majal respondent no. 4B present.

**CORAM: K.R. SHRIRAM &
RAJESH S. PATIL, JJ**

DATED: 8th March, 2023

PC:-

1. Prayer (a) of the petition reads as under :

“ Writ of Certiorari may be issue against Respondent No.1 to 3 that this Hon’ble |Court be pleased to direct them to accept valuation report dated 28th April 2016 and valuation as per ready reckoner dated 12/4/2018 and proceed for auction process to recover the amount mentioned in Recover Certificate dated 23.11.2005 and 5.10.2010.”

2. The recovery officer respondent no.3 one Mr. Sujit Ghadi has filed

an affidavit affirmed on 11th April 2019 in which paragraph no.4 reads as under :

“provided also that, upset price shall be approved by the Registrar by considering the comparative prevailing prices in the market, ready reckoner rates, by obtaining valuation from the approved valuer within one month from the date of receipt of proposal from the Recovery Officer, after hearing the judgment debtor. Such approval upset price shall be valid for six months from the date of approval.”

3. We are, on 8th March 2023 and, therefore, we are also not able to accept the request of petitioner to direct respondent no.1 to respondent no.3 to accept the valuation report dated 28th April 2016 and valuation as per ready reckoner 12th April 2018. We, therefore, dispose the petition with the following directions.

(a) petitioner shall obtain a valuation report of an approved valuer and the cost of valuation shall be paid by respondent nos.4b, 4c and 4d and if not paid that amount shall be added to the outstanding of flat no.5, Second Floor, Kuvar House Co-operative Housing Society Ltd. Colaba, in which the flat in the name of Smt Nasreen Yusuf Turk and her husband is situated, but currently occupied by respondent nos. 4b, 4c and 4d.

(b) Respondent nos. 1 to 3 shall consider the valuation report to be submitted and also keep in mind the market value as per the ready recknor, and take steps to fix the upset price.

4. Ms.Shara and Ms.Bhadrashete state that respondent nos.4b to 4d had met the office bearers of the society on 4th March 2023 and their instructions are respondent nos.4a to 4d have all intentions to pay the

amounts due and payable to the society.

5. We have no comments to offer, but if the society's dues are going to be paid, the society may take such steps/decision, as it deems appropriate.

6. Petition accordingly disposed.

(RAJESH S. PATIL,J.)

(K.R. SHRIRAM,J.)