



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5212 OF 2023

Madan Narayan Deshpande, Shilpa Society, Narendra Nagar Extension, Nagpur

-vs-

The Authorized Officer, Regional Office, UCO Bank, Civil Lines, Nagpur and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Anil Mardikar, Senior Advocate with Shri Deoul Pathak, Advocate for petitioner.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : August 22, 2023

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1. The challenge raised in this writ petition is to the order dated 01/12/2010 passed by the Debts Recovery Tribunal, Nagpur as well as the order dated 28/11/2016 passed by the Debts Recovery Appellate Tribunal, Mumbai. A challenge is also raised to the auction conducted on 29/09/2009 by the respondent No.2-Bank and the Sale Certificate issued by the respondent No.1 in favour of respondent No.4.

2. Having heard Shri Anil Mardikar, learned Senior Advocate for the petitioner, we find that the order dated 01/12/2010 passed by the Debts Recovery Tribunal has been confirmed by the Debt Recovery Appellate Tribunal vide its order dated 28/11/2016. It has been held by the Debts Recovery Appellate Tribunal that after following the prescribed procedure and especially requirements of Section 13(3A) and 13(4) of the Securitization and Reconstruction of Financial Assets

and Enforcement of Securities Act, 2002 along with Section 8 of the Security Interest (Enforcement) Rules, 2002, the mortgaged property owned by the petitioner came to be sold in auction. These orders were the subject matter of challenge in Writ Petition No.4515/2017 (*Madan Narayan Deshpande vs. The Authorised Officer, UCO Bank, Nagpur and ors.*) that was dismissed on 31/01/2018. The petitioner had challenged the aforesaid order in Special Leave Petition (Civil) Diary No.24152/2018 (*Madan Narayan Deshpande vs. Authorized Officer UCO Bank and ors.*). The said proceedings were dismissed on 17/08/2018. It would therefore not be permissible for the petitioner to seek to re-agitate the very same grounds that were raised earlier which were considered and were also adjudicated upon. It is also to be noted that the liability of a guarantor is co-extensive with that of the borrower. Hence though the respondent No.4 was the borrower and the petitioner was the guarantor for the loan obtained from the respondent No.2-Bank, there was no legal impediment for the Bank to proceed against the property mortgaged in its favour by the petitioner as guarantor.

We therefore do not find any merit in the challenge as raised in the writ petition. It is accordingly dismissed with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)