

Shabnoor

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

WRIT PETITION NO.10646 OF 2024

Rajarambapu Patil
Sahakari Sakhar Karkhana Ltd.
Through Its Managing Director
Ramchandra D Mahuli

... Petitioner

V/s.

The State of Maharashtra Through
Collector Sangli & Ors.

... Respondents

Mr. Sarthak S Diwan for petitioner.

Ms. Priyanka B. Chavan, AGP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 6, 2024

P.C.:

1. The petitioner (original plaintiff) challenges the orders passed by the courts below, rejecting the application for temporary injunction filed to restrain the respondents – Revenue Authorities under the Maharashtra Land Revenue Code (the "Code") from proceeding with the notice dated 19th July 2019.

2. The petitioner filed Regular Civil Suit No. 520 of 2019, seeking a declaration and injunction, contending that the notice dated 19th July 2019 is not binding upon him. According to the petitioner, he purchased the factory, which is the subject matter of the suit, through an auction conducted under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). The

employees of respondent No. 5 initiated proceedings before the Labour Court under the provisions of the Payment of Gratuity Act, 1972. As a result, a recovery certificate was issued to the petitioner, demanding a sum of Rs. 1,71,750/- along with interest at the rate of 15% per annum, effective from 7th September 2018.

3. Based on this certificate, respondent No. 5 initiated proceedings under the provisions of the Code. The competent authority, under the Code, issued a notice to the petitioner, requiring him to pay the said amount in accordance with Section 174 of the Code. This notice is the subject matter of the present suit.

4. In the suit, the petitioner filed an application for a temporary injunction to restrain the defendants from executing the recovery notice dated 19th July 2019. The Trial Court and the Appellate Court rejected the application for temporary injunction, primarily on the ground that the petitioner failed to produce any material to demonstrate that he had not assumed responsibility for the dues of the employees.

5. The liability to pay statutory dues under the Payment of Gratuity Act, 1972, remains with the employer by virtue of the transfer of gratuity obligations under the Act. Following the auction proceedings under the SARFAESI Act, the petitioner stands substituted as the employer. Therefore, in the absence of documentary evidence or clear material showing that the petitioner is not liable for statutory dues under the Code, the courts below rightly rejected the temporary injunction application.

6. Furthermore, the action taken by the Revenue Authorities under Section 74 of the Code is capable of being challenged by way of an appeal under Section 247 of the Code. Consequently, the jurisdiction of the Civil Court is limited, and the order passed by the Tehsildar, being within his jurisdiction, should be challenged by way of an appeal before the Revenue Authorities. In my opinion, the courts below have rightly rejected the application for temporary injunction.

7. Accordingly, the writ petition stands dismissed. No order as to costs.

(AMIT BORKAR, J.)