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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9498 OF 2023

Amol Ghanshyam Jagtap	… Petitioner
vs.	
The State of Maharashtra through the Principal Secretary and Ors	… Respondents

WITH

WRIT PETITION NO. 9500 OF 2023

Ajinath Namdeo Khartode	… Petitioner
vs.	
The State of Maharashtra through the Principal Secretary and Ors	… Respondents

WITH

WRIT PETITION NO. 9499 OF 2023

Shivkrupa Agro Industries through its Proprietor	… Petitioner
vs.	
The State of Maharashtra through the Principal Secretary and Ors	… Respondents

Mr. Vikas Shivarkar, for Petitioners.

Mr. Abhijit Kulkarni a/w. Chinmay Patil for Respondent No.4-Bank.

Mrs. Sulbha Chipde, AGP for the State.

CORAM : GAURI GODSE, J.

DATED : 11th MARCH, 2024

P.C. :-

1. All these three petitions are filed for challenging the dismissal of the revision applications filed by the principal borrower and two guarantors respectively for challenging the order of attachment of salary issued on 25th February 2020. Writ Petition No. 9499 of 2023, is filed by the principal borrower, and the other two petitions are filed by the guarantors.

2. The recovery certificate was issued on 2nd January 2020, for the recovery of the outstanding dues towards the loan given in the form of cash credit facility availed in the year 2014. It is not in dispute that the recovery certificate is not challenged by any of the petitioners. Three separate revision applications were filed for challenging the attachment order dated 25th February 2020. The revision applications are filed on 1st February 2021, with a prayer for condonation of delay. All three revision applications are dismissed by separate orders passed on 3rd March 2023.

3. The revision applications are dismissed on the ground that the petitioners remained absent on various dates and the revision applications were not argued. The impugned orders refer to the various dates on which an opportunity was granted to the petitioners

to argue the revision applications. However, they remained absent. Petitioners were absent on 14th March 2021, 31st January 2022, 12th April 2022, 1st August 2022, 12th December 2022 and 8th February 2023. Lastly, on 3rd March 2023, also none appeared for the petitioners. Hence, all three petitions were dismissed by passing separate orders.

4. Learned counsel for the petitioners submitted that their advocate did not inform them about the dates of hearing of the revision applications, hence, they were unable to pursue the same. He relied upon notice dated 6th July 2023, issued by the Bank for execution of the recovery certificate and for handing over possession of the attached properties. Learned counsel for the petitioners thus submitted that accordingly, they made an enquiry and learnt that their revision applications were dismissed on 3rd March 2023. He thus, submitted that necessary steps were taken by the petitioners to file this petition.

5. The revision applications are dismissed after giving various opportunities to the petitioners right from 14th June 2021 till 8th February 2023. It is not that only due to one day's default/absence, the revision applications are dismissed. A perusal of the contents of the memo of writ petition does not explain the reasons for not

appearing before the Revisional Authority right from 14th June 2021, on the various dates notified for hearing of the revision applications. Except for blaming their advocate, no unjustifiable reason is given in the petition for not prosecuting the revision applications filed for challenging the order of attachment. After giving various opportunities the Revisional Authority lastly dismissed the revision applications on 3rd March 2023.

6. It appears that after further action was taken by the bank, the petitioners filed the present petitions sometime in the last week of July 2023. There is no challenge to the recovery certificate by any of the petitioners. It appears that only after the bank proceeded with the execution of the recovery certificate, the petitioners filed revision applications for challenging the order of attachment. Even in filing the revision applications, there was a delay however, no steps were taken by the petitioners to prosecute revision applications by getting the delay condoned.

7. Except for stating that they were not aware of the dates assigned for the hearing of the revision applications, there is no explanation forthcoming for not attending the various dates notified for hearing of the revision applications and not prosecuting their revision applications.

8. Learned counsel for respondent no.4-bank submitted that no case is made out for invoking powers under Article 227 in the present case. He submitted that ample opportunities were given to the petitioners before the Revisional Authority. However, no steps were taken by the petitioners, and they filed these petitions only to delay the execution of the recovery certificate. He submits that the entire blame put forth on the advocate is no ground for grant of any relief in favour of the petitioners. He submits that the petitions are devoid of merits and same deserve to be dismissed.

9. I have perused the record. A perusal of the impugned order indicates that ample opportunity is given to the petitioners to argue the revision applications. However, petitioners did not attend a single day of hearing. It appears that only after the bank proceeded with the execution of the recovery certificate, the petitioners have filed the present petitions. A perusal of the memo of petitions does not provide for any explanation for not prosecuting revision applications and for not attending the dates notified for the hearing by the Revisional Authority as it is recorded in the impugned orders. Except for shifting the blame on the advocate, no explanation is forthcoming from the petitioners for not prosecuting revision applications on merits. It is not in dispute that the recovery certificate is not challenged by any of the petitioners. I do not find

any error or any illegality in the impugned orders. No case is made out by the petitioners warranting interference under Article 227 of the Constitution of India. Petitions are devoid of any merits. For the reasons stated above, petitions are dismissed.

10. At this stage, learned counsel for the petitioners seeks an extension of ad-interim protection already granted in this petition to enable the petitioners to approach the Apex Court. Learned counsel for the petitioner submits that pursuant to an order dated 11th August 2023, petitioners have deposited an amount of Rs. 3,00,000/- with the bank. Hence, ad-interim relief granted by order dated 11th August 2023, be continued for a period of four weeks from today.

11. Learned counsel for respondent no.4-Bank objects for extension of any ad-interim relief. He submits that pursuant to the order passed by this Court on 28th February 2024, respondent no.4-bank was willing to consider one time settlement proposal, in the event, the petitioners were willing to make payment. He submits that instead of submitting a one time settlement proposal, petitioners insisted on one time settlement based on the scheme of the State Government dated 27th April 2023. Learned counsel submitted that the said scheme is not adopted by the bank and is not binding on the respondent no.3-bank. However, the bank was willing to accept

one time settlement proposal if the petitioners showed a willingness to make payment of a substantial amount. He submits that despite various opportunities given to respondent no.4, no offers have been made by the petitioners for making payment of the outstanding dues which are approximately more than Rs. 27,00,000/-.

12. However, since, ad-interim protection has been operating, since 11th August 2023, the same shall continue for a period of four weeks from today.

(GAURI GODSE, J.)