IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 953 OF 2017
WITH
WRIT PETITION NO. 1955 OF 2017
WITH
WRIT PETITION NO. 2006 OF 2017

1. The Liquidator,
Rupee Co-Operative Bank Ltd.
a Co-operative Bank, registered
under the provisions of Maharashtra
Co-Operative Societies Act, 1960
having its registered office at:
2062, Sadashiv Peth, Pune-411 030
Through its Authorized Representative
Shri. Milind Bhide Age: years,
Occu: Service, working as a Branch
in Charge

2. Shri. Ravindra Gangadhar Dharwadkar
The Special Recovery Officer,
Appointed under the provisions of Sec. 156
of provisions of Maharashtra Co-operative
Societies Act, 1960 attached with the
Rupee Co-operative Bank Limited,
having its registered office at: 2062,
Sadashiv Peth, Pune-411 030 .....Petitioners

Vs.

1. The State of Maharashtra
Through Divisional Joint Registrar
of Co-op. Societies, Pune
(Notice to be served upon Ld. AGP)

2. Mr. Shaikh Jaweed Sarfraz Shaikh Abdul Haqq
Age: Adult, Occupation: Business,
R/at: Kashana-E-Haqq, CTS No. 97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

3. Mrs. Begum Nusarat Sarfraz
Age: Adult, Occupation: Business,
R/at: Kashana-E-Haqq, CTS No. 97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

4. M/s. Sarfraz Education Trust,
A public Trust, registered under the provisions of Maharashtra Public Trusts Act, 1950 Having its office at Kashana-E-Haqq, CTS No. 97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

5. Mr. Atul N. Kale
Age: Adult years, Occupation:Business,
R/at: 1080, Gokhale Nagar, Pune 411016 ….Respondents

WITH
WRIT PETITION NO. 12422 OF 2018

Shri. Atul Nandkishor Kale ….Petitioner
Age: 32 years, Occ. Business,
Residing at Chawl No. 109,
1030, Gokhale Nagar, Pune
411016

V/s.

1. Mr. Shaikh Jaweed Sarfraz Shaikh Abdul Haqq
Age: Adult, Occupation: Business,

R/at: Kashana-E-Haqq, CTS No.
97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

2. Mrs. Begum Nusarat Sarfraz
Age: Adult, Occupation: Business,
R/at: Kashana-E-Haqq, CTS No.
97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

3. M/s. Sarfraz Education Trust,
A public Trust, registered under the
provisions of Maharashtra Public
Trusts Act, 1950 Having its
office at Kashana-E-Haqq, CTS No.
97/A/1-16, Salisbury Colony,
Gultakdi, Pune – 411 037.

**4. The Honourable Minister Co-operative
Marketing & Textile,**
Government of Maharashtra, Mantralaya,
Mumbai 400032.

**5. The Divisional Joint Registrar
Co-operative Society, Pune.**

**6. The District Deputy Registrar
Co-operative Society Pune.**

7. The Liquidator,
Rupee Co-operative Bank Limited,
registered under the provisions of
Maharashtra Co-operative Societies
Act, 1960 having its registered office at: 2062,
Sadashiv Peth, Pune-411 030

**8. Shri. Ravindra Gangadhar Dharwadkar
The Special Recovery Officer,**

Appointed under the provisions of Sec. 156
of provisions of Maharashtra Co-operative
Societies Act, 1960 attached with the
Rupee Co-operative Bank Limited,
having its registered office at: 2062,
Sadashiv Peth, Pune-411 030 …..Respondents

Mr. Sarang Satish Aradhye a/w Ms. Gauri Velankar and Ms. Shruti Kothavade for the petitioners in WP No. 953/2017, 1955/2017 and 2006/2017 and for respondent nos. 7 and 8 in WP 12422/2018.
Mr. Yash Dinde for the Petitioner in WP No. 12422/2018 and for respondent no. 5 in WP No. 953/2017, 2006/2017 and 1955/2017.
Mr. Asif Patel Addl GP a/w Mr. B. B. Dahiphale AGP for the respondent 1-State in WP Nos. 953/2017, 2006/2017, 1955/2017 and for respondent nos. 4 to 6 in WP 12422/2018.
Mr. Drupad Patil a/w Ms. Srushti Chalke for respondent nos. 2,3 and 4 in WP No. 953/2017, 2006/2017, 1955/2017 and for respondent nos. 1, 2 and 3 in WP 12422/2018.

CORAM : GAURI GODSE, J.

DATE : 23rd FEBRUARY 2024.

ORAL JUDGMENT:

1. Learned counsel for the petitioner in Writ Petition No.12422 of 2018 seeks leave to amend the prayer clause. Leave granted. Amendment to be carried out forthwith.

2. Rule. Rule made returnable forthwith. All the writ petitions are taken up for final disposal by consent of the parties.

3. Learned GP Mr. Patel waives service for respondent no. 1-State in Writ Petition No. 953 of 2017, Writ Petition No. 2006 of 2017, Writ Petition No. 1955/.002017 and for respondent nos. 4 to 6 in Writ Petition No. 12422 of 2018. Mr. Drupad Patil waives service for respondent nos. 2,3 and 4 in Writ Petition No. 953 of 2017, Writ Petition No. 2006 of 2017, Writ Petition No. 1955 of 2017 and for respondent nos. 1, 2 and 3 in Writ Petition No. 12422 of 2018. Mr. Sarang Aradhye waives service for respondent nos. 7 and 8 in Writ Petition No. 12422 of 2018.

4. All four petitions are arising out of auction proceedings concerning the auction of the secured property of the original borrower i.e. respondent no. 4. Petitioner in Writ Petition No. 953 of 2017, Writ Petition No.1955 of 2017, and Writ Petition No.2006 of 2017 is the bank from whom respondent no. 4 had taken the loan and Respondent nos. 2 and 3 are the trustees of respondent no. 4. Hence, for the sake of convenience, respondent nos. 2, 3, and 4 are hereinafter referred to as ‘borrowers’. Respondent no. 5 is the auction purchaser who has filed Writ Petition No. 12422 of 2018. Hence, respondent no. 5 is

hereinafter referred to as ‘auction purchaser’.

5. In Writ Petition No. 953 of 2017, the bank has challenged the order dated 16th April 2015 passed in Revision Application No. 238 of 2014 filed by the borrowers for challenging the auction sale conducted on 8th July 2014. Writ Petition No. 1955 of 2017 is filed by the bank for challenging the order dated 7th April 2015 passed in Revision Application No. 349 of 2014 filed by the borrowers for challenging the confirmation of sale dated 1st December 2014. Writ Petition No. 2006 of 2017 is filed by the bank for challenging the order dated 16th April 2015 passed in Revision Application No. 180 of 2014 filed by the borrowers for challenging the proclamation for sale dated 30th of May 2014.

6. Writ Petition No. 12422 of 2018 is filed by the auction purchaser for challenging the order dated 7th April 2015 passed in Revision Application No. 349 of 2014 filed by the borrowers for challenging the confirmation of auction sale dated 1st December 2014.

7. Before examining the rival submissions made on behalf of the

parties, it is necessary to refer to the relevant facts.

8. Since the borrowers had failed to pay the loan amount, the bank had issued a recovery certificate dated 7th February 2006 for an amount of ₹92,10,408 and interest at 18% from 1st November 2002 on the principal sum of ₹78,41,577. The said recovery certificate was challenged by borrowers by filing Revision Application No. 178 of 2014 before the Divisional Joint Registrar. The said revision application is still pending.

9. Pursuant to the recovery certificate, the bank initiated execution proceedings and attached the landed property along with the constructed area of the borrowers. Initially, a proclamation was issued, however, the sale pursuant to the first proclamation was not concluded. Thereafter, on 12th December 2013, the bank issued a fresh proclamation, and an auction was scheduled for 1st January 2014. The price was fixed at ₹3.21 Crores. The proclamation was issued based on approval granted by the District Deputy Registrar on 29th July 2013. The borrowers contend that no hearing was given at the time of approving the upset price. Borrowers filed Revision

Application No. 9 of 2014 for challenging the said proclamation dated 12th December 2013. In the said revision, on 10th January 2014, there was a stay granted by the Divisional Joint Registrar.

10. During the pendency of the revision application, the bank issued a fresh proclamation on 30th May 2014 based on the same approval of the upset price. Pursuant to the second proclamation, the auction was scheduled for 8th July 2014. Hence, the borrowers filed Revision Application No. 180 of 2014 to challenge the proclamation dated 30th May 2014. There was no interim relief passed in the said revision application. However, at the time of rejecting the application for interim stay, the Divisional Joint Registrar granted liberty to the borrowers to raise their objection under Rule 107, Rule 13, and 14 of the Maharashtra Co-operative Societies Rules 1961 ('MCS Rules'). On 8th July 2014, the bank conducted an auction pursuant to the proclamation dated 30th May 2014. The auction purchaser submitted the highest bid and his bid was accepted. Hence, the borrowers filed Revision Application No. 238 of 2014 to challenge the auction sale in favour of the auction purchaser.

11. It is the case of the borrowers that they had submitted a valuation report on 18th June 2014 before the Divisional Joint Registrar. During the pendency of the aforesaid revision applications, the sale in favour of the auction purchaser was confirmed on 1st December 2014. Hence, borrowers filed Revision Application No. 349 of 2014 challenging the confirmation of sale. All the aforesaid revision applications were decided by the Divisional Joint Registrar by passing separate orders.

12. The Divisional Joint Registrar by order dated 16th April 2014, allowed the Revision Application No. 349 of 2014 on the ground that (i) the proclamation notice dated 30th May 2014 was not issued in terms of Rule 107 of the MCS Rules (ii) the proclamation notice did not contain the particulars of the property proposed to be auctioned and (iii) the objections filed by the borrowers on 6th August 2014 pursuant to the liberty granted by order dated 7th July 2014, were not decided and the auction dated 8th July 2014 was conducted based on valuation report dated 29th July 2013 approved by the District Deputy Registrar. It was thus held that, it was necessary to obtain a fresh valuation

report. The Divisional Joint Registrar referred to the valuation report submitted by the borrowers on 18th June 2014 stating the valuation of the property as ₹13,12,00,000. Thus, the Divisional Joint Registrar observed that it was necessary to give an opportunity of hearing to the borrowers/owners of the property before fixing the valuation for conducting the auction sale.

13. The said order passed in Revision Application No. 349 of 2014 filed by the borrowers was decided on 7th April 2015 with the aforesaid observations. Hence, the bank filed Writ Petition No.1955 of 2017, and the auction purchaser has challenged the said order by filing a separate petition i.e. Writ Petition No. 12422 of 2018.

14. By order dated 16th April 2015, Revision Application No. 238 of 2014 was allowed by the Divisional Joint Registrar on similar grounds by recording similar observations and reasons, and the auction sale dated 8th July 2014 is quashed and set aside. Hence, the bank has filed Writ Petition No. 953 of 2017.

15. Revision Application No. 180 of 2014 for challenging the

proclamation dated 30th May 2014 was allowed on 16th April 2015. Divisional Joint Registrar while allowing the said revision application has also recorded similar reasons as recorded in order of Revision Application No. 349 of 2014. Thus, by the said order dated 16th April 2015, the proclamation notice dated 30th May 2014 is quashed and set aside.

16. Learned counsel for the borrowers submitted that the revision application filed by the borrowers challenging the recovery certificate is still pending before the Divisional Joint Registrar. However, during the pendency of the said revision, the auction sale proceedings proceeded and hence, the aforesaid revision applications were filed. He submitted that in view of the liberty granted by the Divisional Joint Registrar by order dated 7th July 2014 passed on an interim application filed in Revision Application No. 180 of 2014, the borrowers raised objections in terms of Rule 107 (13) and (14) of MCS Rules. He submitted that pursuant to the said order, borrowers filed their objections dated 6th August 2014 before the recovery officer. Before the objections were decided, there was an amendment to the Rules and pursuant to the

amended Rule 107 (14), the objections were to be decided by the District Deputy Registrar. He submitted that the said amendment is dated 30th August 2014, and, in view of the said amendment, on 21st November 2014, the borrowers made a representation before the special recovery officer requesting to transfer the said objections to the District Deputy Registrar. He further submitted that the borrowers also pointed out the aforesaid facts to the District Deputy Registrar by filing an application dated 21st November 2014 and contended that the said objections filed under Rule 107 (14) were pending before the special recovery officer, and thus requested to decide the same on merits before confirmation of the sale. According to the learned counsel for the borrowers, the said objections are still pending and without there being any decision on the said objections, there was an order passed confirming the sale on 1st December 2014.

17. Learned counsel for the bank is unable to make any statement as to whether the said objections were decided. However, learned counsel for the borrowers on instructions has made a statement that said objections are never decided. He further submits that in any case,

the said objections are required to be decided after hearing the borrowers. He further on instructions submits that no hearing is given to the borrowers on the objections dated 6th August 2014.

18. Learned counsel for the auction purchaser submitted that the said objections were decided by the District Deputy Registrar while passing the order of confirmation of sale on 1st December 2014. He relied upon the order dated 1st December 2014 and submitted that the observations of the District Deputy Registrar indicate that the objections filed by the borrowers on 6th August 2014 were considered by the District Deputy Registrar while confirming the sale. He relied upon certain observations in the said order and in particular clause 4 of the conclusions recorded in the order dated 1st December 2014 and submitted that the objections filed by the borrowers are rejected by the said order which is a common order for deciding the objections as well as confirmation of sale.

19. Learned counsel appearing for the borrowers submitted that in view of Rule 107(14), the sale cannot be confirmed, until and unless objections filed by the borrowers are decided and there has to be a

separate order for deciding the objections. In any case, he submits that since borrowers were never given any hearing on their objections, the order dated 1st December 2014, cannot be termed as a common order for deciding the objections filed by the borrowers and the confirmation of the sale. Learned counsel for the borrowers further submitted that they have already submitted the valuation report with regard to the property proposed for auction sale. He submits that the borrowers/owners of the property would be entitled to make their submissions at the time of confirming the upset price for auction sale. He submits that if the property is sold at a lower price, serious prejudice would be caused to the borrowers/owners. He submits that even otherwise, the revision application filed by the borrowers challenging the recovery certificate is also kept pending and during the pendency of those proceedings, the auction sale has been confirmed. He thus submits that before proceeding to confirm the auction sale, it was necessary to pass an order on the objections dated 6th August 2014, filed by the borrowers under Rule 107 (14)(i) of the MCS Rules.

20. Learned counsel for the auction purchaser has made a

grievance that in Revision Application No. 349 of 2014 filed by the borrowers for challenging the confirmation of sale, the auction purchaser was not made a party. He submits that since the auction purchaser was not made a party, he was unable to raise any objection and point out his submissions in support of the confirmation of the auction sale. It is not in dispute that the auction purchaser is not made a party respondent in the Revision Application No. 349 of 2014 filed for challenging the confirmation of the auction sale.

21. Learned counsel for the borrowers submitted that even though the auction purchaser was not made a party to the said revision application, the auction purchaser was a party to the Revision Application No. 238 of 2014 filed for challenging the auction held on 8th July 2014. He further submits that Revision Application No. 238 of 2014 is allowed after hearing the auction purchaser and the auction held on 8th July 2014 is quashed and set aside. However, the auction purchaser has not challenged the said order. He further submits that confirmation of sale is a subsequent order passed pursuant to the auction sale, hence, the auction purchaser was aware of the

proceedings, and no prejudice is caused to the auction purchaser by not making him a party to the said revision application.

22. I have perused the record and proceedings and heard all parties at length. It is not in dispute that the auction purchaser was not made a party to the revision application filed for challenging the confirmation of the auction sale. Though the auction purchaser was made party to the revision application filed for challenging the auction sale which was subsequently confirmed, it was necessary that the auction purchaser should have been made party even to the revision application filed for challenging the confirmation of the auction sale. Learned counsel for the borrowers may be right in submitting that the auction purchaser has chosen not to challenge the order allowing the revision application of the borrowers for setting aside the auction sale, however, not adding the auction purchaser as party respondent in the revision application filed for challenging the confirmation of auction sale cannot be justified.

23. So far as the objections dated 6th August 2014 filed by the borrowers are concerned, it is not disputed that the District Deputy Registrar by order dated 7th July 2014 passed in an interim application

in Revision Application No. 180 of 2014 granted liberty to file the said objections. Perusal of the record does not indicate that the said objections are decided as contemplated under Rule 107 (14) (i) of the MCS Rules. I do not find any substance in the arguments made on behalf of the auction purchaser that while passing an order for confirmation of sale, these objections filed by the borrowers are rejected. The conclusions recorded by the District Deputy Registrar, while confirming the auction sale by order dated 1st December 2014, refers to the objections filed by the borrowers. However, there is no clear finding recorded as to in what manner the objections are decided and whether the same are rejected.

24. It is thus necessary to refer to the Rule 107(14) of the MCS Rules. The said Rule indicates that the confirmation of sale can be granted only on expiry of 30 days from the date of the sale, if there is no application filed for setting aside the same, or if such application is filed, the same has been rejected. Clause (i) of sub-Rule 14 of Rule 107 of MCS Rules provides for filing of an application for setting aside the sale within 30 days from the date of the sale. If an application is

filed for setting aside such a sale, the same has to be decided by the District Deputy Registrar and if he is satisfied that the applicant has sustained substantial injury by reason of an irregularity, mistake, or fraud the sale can be set aside.

25. In the present case, it is the specific objection raised on behalf of the borrowers regarding the fixing of the upset price for the sale of the property secured with the bank. It is not disputed that the confirmation of the upset price was decided without hearing the borrowers and hence, the borrowers had already filed Revision Application No. 9 of 2014 for challenging the earlier proclamation notice issued on 12th December 2013. The upset price quoted by the bank in the said proclamation notice was ₹3.21 Crores and in the subsequent proclamation notice dated 30th May 2014, the bank quoted the upset price with a slightly higher value i.e. ₹3,21,60,000. It is not disputed that Revision Application No. 9 of 2014 is still pending. It is also not disputed that in the said revision application, there was a stay granted in favour of the borrowers. However, during the pendency of the said revision application and subsistence of the interim relief, the

bank proceeded to issue a second proclamation notice dated 30th May 2014 pursuant to which an auction sale was conducted and the same was confirmed. The said auction sale and confirmation of same was challenged in the aforesaid proceedings.

26. Learned counsel for the borrowers is right in submitting that it was necessary to give a hearing to the borrowers before finalizing the upset price. He has rightly relied upon the third proviso to clause (f) of Sub-Rule 11 of Rule 107 of the MCS Rules. The said proviso to the said clause requires a hearing to be given to the judgment debtor. In the present case, the borrower i.e. the judgment debtor was admittedly not given a hearing before confirming the upset price. In the present case, it is not disputed that such a hearing was not given to the borrowers and that the borrowers have raised objections regarding the same by filing Revision Application No. 9 of 2014 to challenge the earlier proclamation dated 12th December 2013. In my view, there is substance in the arguments made on behalf of the borrowers that it was necessary to hear the borrowers before finalizing the upset price. The procedure for holding an auction, according to the proclamation

would require the initial step of confirming the upset price after hearing the judgment debtor.

27. The learned counsels for the bank and the auction purchaser made submissions in support of the auction process, however, no satisfactory answers are forthcoming for confirming the upset price without giving a hearing to the borrowers and not deciding the objections filed by the borrowers before confirming the auction sale.

28. Thus, the finalization of the upset price is in breach of the MCS Rules. The third proviso to clause (f) of sub-rule 11 of Rule 107 provides that the upset price is to be approved by the Registrar after considering prevailing prices in the market, ready reckoner rates, by obtaining a valuation report from the approved valuer and after hearing the judgment debtor. The said proviso also provides that such approved price shall be valid for six months. Thus, approval of the upset price after giving a hearing to the judgment debtor is not an empty formality. Sub-rule 14 of Rule 107 requires a decision on the objections before confirmation of the auction sale. The purpose of such a procedure is to fetch the best possible price from the auction

sale to enable the creditor/bank to recover all the outstanding dues and also enable the judgment debtor/objector/owner to protect his property from being undervalued and getting sold at a lower price depriving him of his right on the property if any surplus amount is likely to remain after recovering the outstanding dues from the auction sale price. Thus, before disposing of the assets for recovery of the outstanding dues the concerned authority should ensure compliance of the statutory Rules. The relevant MCS Rules for conducting auction sales indicate that the same warrants compliance with the principles of natural justice, fairness, and transparency.

29. In the present case there is a breach of the rules in the approval of the upset price without hearing the borrowers and a further breach of rules by confirming the auction sale without deciding the objections filed by the borrowers. It is not disputed that the proclamation dated 30th May 2014 was issued during the interim stay order granted in Revision Application No. 9 of 2014. Thus, I do not find any error or any illegality in the impugned orders setting aside the proclamation, the auction sale and the confirmation of the auction sale. There is no

error or any illegality in the reasons recorded by the Divisional Joint Registrar in the impugned orders. Thus, interference under Article 227 of the Constitution of India is not warranted in these petitions. Hence, the orders impugned in the writ petitions are required to be confirmed.

30. In view of the confirmation of the orders impugned in the aforesaid writ petitions, the stage of the auction proceedings will revert to the stage before the auction sale was conducted on 8th July 2014.

31. Learned counsel for the auction purchaser, is right in submitting that he should have been made a party in the Revision Application No. 349 of 2014 filed for challenging the order of confirming the auction sale. By Order dated 14th February 2024 I had recorded that the order dated 7th April 2015 passed in Revision Application No. 349 of 2014 challenged by the auction purchaser is in breach of principles of natural justice and the order deserves to be set aside and the matter is required to be remitted back for fresh hearing of the Revision Application No. 349 of 2014. However, on that day it was not pointed out that the auction purchaser has not challenged the Order in Revision Application No. 238 of 2014 by which the auction sale is set

aside. Therefore, the order setting aside auction sale attained finality qua the auction purchaser.

32. Once I have confirmed the order dated 16th April 2015, setting aside the auction sale, remanding the revision application challenging the confirmation of auction sale to the revisional authority on the ground of non-joinder of the auction purchaser and for deciding Revision Application No. 349 of 2014 afresh would be redundant. Admittedly, the auction purchaser has not challenged the order dated 16th April 2015, passed after hearing him in Revision Application No. 238 of 2014, challenging the auction sale conducted on 8th July 2014. Once for the aforesaid reasons, the order passed for setting aside the auction sale is confirmed, Revision Application No. 349 of 2014 for challenging the subsequent confirmation of the auction sale is rendered redundant. Hence, I do not see any valid ground to set aside the order impugned in the writ petition filed by the auction purchaser.

33. Hence, in view of the reasons recorded above and confirmation of the impugned orders, the stage of the recovery proceedings initiated by the bank goes back to the stage of issuance of the proclamation.

However, so far as the proclamation dated 30th May 2014 is concerned, the borrowers had filed Revision Application No. 180 of 2014, and the same was allowed on 16th April 2015.

34. For aforesaid reasons, I have also confirmed the order dated 16th April 2015 pursuant to which the proclamation dated 30th May 2014 also stands set aside. Hence, the pending proceeding initiated by the borrowers by way of Revision Application No. 9 of 2014, challenging the initial proclamation dated 12th December 2013 is required to be decided. The proceeding initiated by the borrowers by way of Revision Application No. 178 of 2014 for challenging the recovery certificate which is still pending is also required to be decided.

35. Learned counsel for the borrowers submitted that the borrowers have deposited an amount of ₹1,01,73,000 in this court, on 25th September 2019 pursuant to the order dated 13th August 2019. He submits that in view of the confirmation of the orders passed in the revision applications filed by the borrowers, the said amount along with accrued interest may be transferred to the record and proceedings of Revision Application No. 178 of 2014 filed by the borrowers for

challenging the recovery certificate. In view of the impugned orders the proclamation dated 30th May 2014, the auction sale dated 8th July 2014, and its confirmation on 1st December 2014 are set aside. Thus, now two proceedings are pending; (i) Revision Application No. 9 of 2014 for challenging the proclamation dated 12th December 2013, and (ii) Revision Application No. 178 of 2014 to challenge the recovery certificate. Since the revision application challenging the recovery certificate is still pending, I find substance in the arguments made on behalf of the borrowers.

36. Hence, for the reasons recorded above, the following order is passed:

ORDER

I. Writ Petitions are dismissed.

II. The amount of ₹1,01,73,000 deposited by the borrowers in this court on 25th September 2019 pursuant to the order dated 13th August 2019 shall be transferred along with the accrued interest to the record and proceedings of Revision Application No. 178 of 2014, pending before the Divisional Joint Registrar, Pune Division, Pune within a period of six weeks from today. The Divisional Joint Registrar shall invest the said amount in any nationalized bank till disposal of the revision application. Depending upon the outcome of the said revision application, while passing the final order in the revision application the Divisional Joint Registrar shall pass appropriate directions for disbursal of the said amount with accrued interest.

III. The borrowers shall be at liberty to make an appropriate application in Revision Application No. 178 of 2014 for interim relief.

IV. It is clarified that I have not examined the rival contentions of the parties on the merits of the recovery certificate. Hence, all contentions of all the parties in Revision Application No. 178 of 2014 are kept open.

V. Bank is at liberty to oppose Revision Application No. 178 of 2014, including the objection regarding compliance with the statutory provisions under section 154 (2A) of the MCS Act. Borrowers are at liberty to seek the benefit of the amount already deposited by them for claiming compliance with the statutory provisions under section 154 (2A) of the MCS Act. The Divisional Joint Registrar shall pass appropriate order on the said claims in accordance with law.

VI. In view of the confirmation of the impugned orders, the auction purchaser is entitled to receive the refund of the purchase amount deposited by him with the bank. Hence, the auction purchaser i.e. the petitioner in Writ Petition No.12422 of 2018 is at liberty to apply to the bank/Liquidator for refund of the purchase amount, which shall be refunded expeditiously in accordance with law.

[GAURI GODSE, J.]

Signed by: Iresh S. Mashal
Designation: PS To Honourable Judge
Date: 19/03/2024 14:52:10