

Mohite

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

WRIT PETITION NO.7113 OF 2024

Narendra Maruti Sandhbhor

... Petitioner

Versus

Sharad Sahakari Bank Ltd. Manchar and Ors.

...Respondents

Mr.S.S.Kanetkar with Mr.Yash Dewal for the Petitioner

Mr.H.D.Mulla, A.G.P. for the Respondent Nos.3 and 4

**CORAM: FIRDOSH P POONIWALLA, J.
DATED: 14th May, 2024
VACATION COURT**

P.C.

1. The present Petition seeks to challenge the Auction Notice dated 16th April 2024 issued by Respondent No.1 Bank, arising out of the Order dated 21st March 2024 passed by the District Deputy Registrar, Co-operative Societies, Pune, below an Application preferred by the Special Recovery Officer of the Respondent Bank seeking fixing of the Upset Price under Rule 107 of the Maharashtra Co-operative Societies Rules 1961.
2. In 2014, the Petitioner had obtained a loan and mortgaged certain properties with the Respondent Bank. In 2019, the Petitioner defaulted on the loan and recovery proceedings was initiated. An ex-parte Recovery Certificate was issued. On 17th July 2022 the upset price was fixed at Rs.5 crores and odd in respect of the mortgaged properties of the Petitioner.
3. In 2022-23 an auction was conducted and two out of the eight mortgaged properties of the Petitioner were sold.
4. On 12th January 2024, a fresh application was preferred by Respondent No.2 i.e. Special Recovery Officer to re-fix the Upset Price. By

an Order dated 21st March 2024, the District Deputy Registrar refixed the Upset Price at Rs.1 crore and odd based on a Valuation Report of 2022.

5. On 3rd April 2024, the Petitioner filed a Revision Application challenging the said Order dated 21st March 2024, and the same is pending.

6. I am informed by the learned counsel for the parties that the hearing of the Revision Application is fixed at 3 p.m. today. However, the learned counsel for the Petitioner states that the Petitioner has been informed that the hearing may not take place as the concerned Divisional Joint Registrar may be on Election Duty.

7. Even though this Revision Application is pending, on 16th April 2024 an Auction Notice has been issued for public auction to be conducted on 21st May 2024, at 1.30 p.m., to sell off the Petitioner's properties.

8. It is the submission of the Petitioner that till the Revision Application, which is filed challenging the fixing of the Upset Price, is decided, the auction ought not to take place as otherwise the Petitioner's properties will be auctioned for a lower price.

9. In my view, till the Petitioner's Revision Application, challenging the fixing of the Upset Price is decided, and the correct Upset Price is arrived at, the auction should not take place as it would cause grave prejudice to the Petitioner as his properties would be auctioned at a lower price.

10. In the aforesaid circumstances, the auction is stayed till 14th June 2024.

11. Stand over to 11th June 2024.

12. Issue notice to the Respondents.

13. The learned counsel waives notice on behalf of the Respondent Nos.3 and 4.

(FIRDOSH P. POONIWALLA, J.)