IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COURT RECEIVER REPORT NO.68 OF 2024
IN
WRIT PETITION NO. 1406 OF 2014

Dhanlaxmi Bank Ltd. & Anr. ….Petitioner

V/s.

Union of India & Ors ….Respondents

Mr. Fraser M. Alexander i/b Majmudar & Partners for Petitioner.
Mr. Suresh Kumar for Respondent Nos.1 to 3.
Mr. S.K. Dhekale, Court Receiver present

CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 28th FEBRUARY 2024

P.C. :

1 Mr. Alexander states, as recorded in the order dated 7th February 2024 petitioner bank, at this point of time, is not inclined to purchase the premises. Mr. Alexander states his instructions are that one more attempt be made by the bank to auction the premises. Mr. Suresh Kumar has no objection. Mr. Suresh Kumar, of course expresses concern that the cost being incurred to auction the premises might eat into what the Income Tax Department might finally get.

2 Though, we understand the concern expressed by Mr. Suresh Kumar, there appears to be no other option. Mr. Alexander also states that sale will be conducted in consultation with the Income Tax Department and any sale proceeds recovered, will be disbursed / utilised, subject to orders of this court.

3 In the circumstances, petitioner is permitted to auction the mortgaged premises.

4 Petition came to be filed in view of the attachment order dated 2nd December 2013 passed by the Income Tax Department. We are conscious of the fact that the department also has to be protected. We are, however, not determining at this point of time who has higher priority. Therefore, upon petitioner depositing the sale proceeds of the attached premises without deducting TDS, with the Prothonotary and Senior Master, High Court, Bombay, the attachment will stand vacated without further reference to the court from the amount to be deposited without any deduction by petitioner. Of course the cost of advertising the last sale can be deducted and the balance shall be deposited with the Prothonotary and Senior Master, High Court, Bombay, under advise to the concerned office of the Income Tax Department and to Mr. Suresh Kumar, Advocate.

5 In view of the above, the two reports of the Court Receiver, i.e, Court Receiver Report No.403 of 2023 and Court Receiver Report No.68 of 2024, stand disposed, subject to payment of cost of Rs.5000/- each. Mr. Alexander states these amounts can be adjusted from the deposit already made with the Court Receiver and if, there is any short fall, the same shall be paid within two weeks upon receiving the communication from the Court Receiver.

6 The Court Receiver is discharged without passing of accounts. Mr.

Alexander's undertaking that petitioner would pay the Court Receiver's charges, if any, within two weeks of receiving a communication from the Court Receiver in that regard, is accepted.

(Dr. NEELA GOKHALE, J.) **(K. R. SHRIRAM, J.)**