2025:BHC-AUG:13235-DB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5599 OF 2025

RAJLAXMI INFOTECH PRIVATE LTD THROUGH ITS DIRECTOR
VERSUS
VAIDHYANATH URBAN COOPERATIVE BANK LTD.
...

Mr. N. B. Khandare, Senior Advocate i/by Mr. S. G. Jadhavar,
Advocate for the Petitioner
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.**

DATE : 29.04.2025

PER COURT :

. Heard Mr. Khandare, learned senior advocate for the petitioner.

2. The petitioner, which is a private limited company, is coming with following prayers:-

> *'B) By issuing writ of mandamus or any other appropriate writ, order, or direction, in the like nature the respondent bank may kindly be directed in response to the representation submitted by the petitioner to appoint independent authorized valuer for valuation of the property survey No. 188/1 situated at village Chikali for that purpose issue necessary order.*
>
> *C) By issuing appropriate writ, order, or direction, in the like nature respondent bank not appointing independent authorized valuer then in the interest of justice this Hon'ble court may kindly be appoint independent valuer for conducting valuation in the light of the application filed by the petitioner for that purpose issue necessary order.'*

3. Mr. Khandare, learned senior advocate for the petitioner, submits that the petitioner had availed a loan from respondent which is a co-operative bank established under the Maharashtra Co-operative Societies Act, 1960 (for brevity **'M.C.S. Act'**) and governed by the Reserve Bank of India regulations. It was a cash credit loan of Rs. 10,00,00,000/- (Ten Crore Rupees Only) sanctioned and disbursed to the petitioner in the year 2015, against mortgage of its property bearing Survey No. 188, Chikali, Tq. Chikali, Dist. Buldhana. The respondent – bank obtained its valuation from its valuer in the year 2016 and was estimated at Rs. 13.75 Crores.

4. Mr. Khandare submits that the bank resorted to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity '**SARFAESI Act'**) for recovery of the loan amount and simultaneously obtained a recovery certificate under Section 101 of the M.C.S. Act. Though the petitioner has resorted to revision under Section 154 of that act before the Joint Registrar of the Co-operative Societies, he refused to entertain it for want of deposit of 50% of the outstanding. It is a subject matter of challenge which is going on independently.

5. Mr. Khandare then submits that in spite of the property being worth more than 13 Crore in the year 2016, by resorting to the provisions of the SARFAESI Act, the respondent – bank sold it for a sum of Rs. 4.41 crore and itself purchased it with such under valuation and even the sale certificate was issued in the year 2018. It is in the backdrop of such state of affairs, according to him, the petitioner is approaching this Court with the aforementioned prayers.

6. We have considered the submissions and perused the papers.

7. Admittedly, accepting all the aforementioned facts and circumstances at their face value, the property of the petitioner which was mortgaged to respondent – bank has been successfully sold by resorting to the provisions of the SARFAESI Act and even the sale certificate has been issued way back in the year 2018.

8. Though the petitioner pretends that the prayers are innocuous, merely seeking valuation of the secured asset, it is merely a peripheral matter. The core issue is the fact that the secured asset has already been sold long back, more than six and half years ago and even the sale certificate has been issued. There is not even a proceeding initiated by the petitioner to seek the sale to be set aside. In fact, it does not seem to have resorted to any such relief by approaching the Debt Recovery Tribunal **(DRT)** through which, the secured asset must have been sold under the SARFAESI Act and the sale certificate was issued. So long as the sale is not set aside, there is no question of budging to the request of the petitioner by resorting to some fishing enquiry by issuing a direction for ascertaining a fresh valuation of the secured asset.

9. The petition grossly suffers from delay and latches. A remedy to approach the DRT under Section 17 has been lost by efflux of period of limitation prescribed thereunder. The prayers circuitously seek us to enter into the prohibited jurisdiction, by resorting to Article 226 of the Constitution of India. The rights have become final and crystallized between the parties *inter se.*

10. We have no hesitation in concluding that the petitioner is asking for something which cannot be granted in exercise of powers under the writ jurisdiction.

11. Mr. Khandare, senior advocate, would place heavy reliance decision in the matter of ***Vasu P. Shetty V/s. Hotel Vandana Palace and Others; 2014 (5) SCC 660*** and ***Mathew Varghese V/s. M. Amritha Kumar and Others; 2014 (5) SCC 610.*** He would vehemently submit that respondent being a secured creditor which had invoked the rights under the SARFAESI Act it could not have acted arbitrarily rather should have acted fairly and should have obtained a fair valuation before it decided to and actually purchased the secured asset itself.

12. We have gone through both the judgments. Obviously, the issue has been deeply considered and decided in both these matters emphasizing the responsibility of a secured creditor not to act in an arbitrary manner but rather having the responsibility to ensure that maximum price is fetched while selling the secured assets under the SARFAESI Act. It has no unbridled power. The procedure prescribed under the SARFAESI Act, have to be followed religiously and in the manner prescribed therein.

13. However, in our considered view, the petitioner is not entitled to now circuitously seek any enquiry regarding alleged under valuation after so many years and more particularly after its right to seek appropriate relief in respect of the disputed sale, by resorting to the remedy under Section 17 of the SARFAESI Act has already been time barred. Consequently, the petitioner cannot salvage any ground by referring to the principles laid down by the Supreme Court.

14. The petition is **dismissed.**

(Y. G. KHOBRAGADE, J.) **(MANGESH S. PATIL, J.)**

jhs/