

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12997 OF 2024

Santosh Dada Ghule

.... Petitioner.

V/s

The Union of India

Through Department of

Finance and Commerce & Others

..... Respondents.

Mr Mohansinh U. Rajput, Advocate for the petitioner.

Mr. P.P. Kakade, Additional Government Pleader a/w Mr. S.L. Babar, Assistant Government Pleader for respondent no.3-State.

**CORAM : A.S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATE : 7TH JANUARY, 2025

PC. :

1] In this writ petition the petitioner seeks to challenge the steps taken to recover dues that were payable to the respondent no.4 – Finance Company pursuant to the financial assistance availed by the petitioner. According to the learned counsel for the petitioner, the transport vehicle that was purchased pursuant to the financial assistance and was hypothecated with the Finance Company came to be sold without following due process of law.

2] It is seen from the record that pursuant to the arbitration clause in the Finance Agreement, respondent no.3 invoked the same. This resulted in an Award dated 30/09/2022 passed by the Arbitrator. In the Award, it is stated that the petitioner did not participate in the said proceedings. This Award has not been challenged by the petitioner. The said Award has thereafter been put to execution and it is informed that the execution proceedings are still pending.

3] In these facts, we find that the remedy of the petitioner is either to challenge the Award or to contest the execution proceedings that have been initiated pursuant to the said Award. The learned counsel for the petitioner by relying upon the decisions in *ICICI Bank vs. Shanti Devi Sharma and Others*, (2008) 7 SCC 532, *Kaushal Kishor vs. State of Uttar Pradesh and Others* (2023) 4 SCC 1 and the judgment of the Patna High Court in Civil Writ Jurisdiction Case No.3456 of 2021 (*Dhananjay vs. The Union of India through Secretary, Department of Finance and Commerce, New Delhi*) submits that this Court may entertain the writ petition.

4] We find that besides the alternative remedy available, there are various disputed questions that fall for consideration. In that view of the matter, we are not inclined to entertain the writ petition. The writ petition is accordingly disposed of as not entertained. The petitioner is at liberty to invoke appropriate civil/criminal jurisdiction and seek necessary relief. All contentions are kept open.

[M. M. SATHAYE,, J.]

[A.S. CHANDURKAR, J.]