IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5133 OF 2026

Nagendra Vishwanath Jadhav ...Petitioner

VERSUS

M/s Challani Ginning and Pressing Factory
and Anr ...Respondents

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- Mr. G. V. Wani, Advocate for the Petitioner

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CORAM : S. G. CHAPALGAONKAR, J
DATE : MAY 06, 2026

FINAL ORDER :

1. The Petitioner takes exception to orders dated 03/05/2023 and 22/12/2023 passed below Exhibits 186 and 134 by learned Civil Judge, Senior Division, Aurangabad in Special Darkhast No. 32 of 2027. By order passed below Exhibit 134, Executing Court fixed upset price for terms of settlement of sale proclamation at Rs. 2,85,34,000/- and issued fresh proclamation and sale warrant in terms of Order XXI, Rule 66 of Code of Civil Procedure (for short '**CPC**'). Whereas, by way of order passed below Exhibit 186, Petitioner's objection filed under Order 12, Rule 90 of CPC is rejected.

2. The Petitioner is a judgment debtor as per decree passed in Special Civil Suit No. 201/2013 for specific performance of contract. Although said suit was dismissed, decree of refund of Rs. 1,45,00,000/- with interest at the rate 8%

p.a. was passed against Petitioner. In execution of said decree, Petitioner's property came to be attached. According to Petitioner, in year 2017, valuation of property was Rs. 2,90,00,000/-. However, Executing Court fixed upset price by order dated 03.05.2023 to the tune of Rs.2,85,34,000/-, which is grossly inadequate and caused serious prejudice to Petitioner. According to Mr. Wani, mandatory provision under Order XXI, Rule 54 and 66 of CPC was not complied. The Petitioner has raised objection in terms of Order XXI, Rule 90 of CPC by application below Exhibit 186. However, said application came to be rejected by impugned order dated 22.12.2023. Ultimately, sale was confirmed and sale certificate was permitted to be issued by order dated 04.01.2025. Hence this Petition.

3. Perused impugned orders. The learned Executing Court has observed that property in question was attached vide order dated 21.09.2017 in course of execution of decree. Notice under Order XXI, Rule 66 of CPC was duly served upon Petitioner/Judgment debtor No.1. He raised objection to sale proclamation on ground of proper valuation and same has been decided vide order dated 03.05.2023. The order passed below Exhibit 134 dated 03.05.2023 shows that Petitioner's contention that market value of suit property is more than Rs.3.5 crores was duly considered. The decree holder as well as judgment debtor were given opportunity to lead evidence in respect of valuation of property. The evidence of valuer was recorded, valuation report was placed on record, which

shows that fair market value including building cost and site development is at Rs.2,59,40,000/- and realizable sale value is determined to Rs.2,35,00,000/-. The government value of property was found to be Rs.2,68,35,000/-. Ultimately, by adding 10% escalation for a year, valuation of property in auction is determined to Rs.2,85,34,000/-.

4. Mr. Wani, learned Advocate appearing for Petitioner, relying upon observations of Supreme Court of India in case of ***Om Sakthi Sekar Vs. V. Sukumar and Ors*** (Civil Appeal No. 3362 of 2026), decided on 13.03.2026, submitted that purpose of an auction is to obtain most remunerative price of property by affording an opportunity to intending purchasers to participate in a process of competitive bidding, thereby ensuring transparency and fairness in the sale. However, if price of competitive bidding is curtailed or compromised, the possibility of underbidding or securing an inadequate price cannot be ruled out.

5. Although there cannot be dispute about legal proposition espoused in cited case, this Court upon considering record leading to determination of offset price and fact that parties were given fair opportunity to establish fair valuation, do not find any fundamental flaw that would require interference of this Court in writ jurisdiction in offset price determined by court.

6. Pertinently, impugned orders are passed in the year 2023. The Petitioner was well aware about aforesaid orders. The present Petition is filed in

year 2026. There is no explanation for the delay of about three years in approaching this Court. In facts of present case, the question of delay and laches assumes significance. In absence of appropriate explanation for delay, this Court find that Writ Petition cannot be entertained and deserves rejection even on ground of delay and laches. In result, Writ Petition stands rejected.

(S. G. CHAPALGAONKAR, J.)

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