IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1123 OF 2025

TJSB Sahakari Bank Limited
Through Authorized Signatory ...Petitioner
Versus
The Assistant Commissioner Of CGST And Ors. ...Respondents

Mr. Aadesh M. Patil, for the Petitioner.
Mr. Jitendra B. Mishra a/w Mr. Abhishek Mishra and Mr. Rupesh Dubey, for Respondent No.1.

CORAM: MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.

DATE: 10th APRIL 2026

P.C.

1. Heard the learned counsel for the parties.

2. In this Petition, the principal contention of the Petitioner-Bank (secured creditor) is that in terms of the law laid down by the Full Bench in the case of ***Jalgaon Janta Sahakari Bank Ltd. v. Joint Commissioner of Sales Tax***[1], the Petitioner has a priority as a secured creditor over the dues claimed by Respondent No.1 with regard to the Central Goods and Services Tax Act, 2017.

3. The Petitioner-Bank relies upon Memorandum of Understanding (MoU) dated 26th November 2020, whereby three properties, including the property that forms subject matter of the present Petition, were sold by way of private treaty as six attempts at auction had failed. It was submitted that such recourse to sale by private treaty is permitted under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement

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1 2022 SCC OnLine Bom 1767

of Security Interest Act, 2002 (hereinafter referred to as 'Securitisation Act'). It is further submitted that the Petitioner was constrained to file this Petition as the charge of Respondent No.1 was recorded in the revenue record (7/12 extract) despite the priority of the Petitioner as the secured creditor.

4. On this basis, the learned counsel appearing for the Petitioner-Bank submitted that this Court may consider setting aside the notice dated 21st February 2017 issued by Respondent No.1 as regard its dues and the charge recorded in the revenue record. In support of the said submission, the learned counsel for the Petitioner-Bank invited attention of this Court to Exhibit-B. It shows the registration of the security interest of the Petitioner-Bank with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) on 18th December 2012. It is submitted that since CERSAI registration of the Petitioner-Bank is much prior to the aforementioned notice dated 21st February 2017, issued by Respondent No.1, in terms of the law laid by the Full Bench of this Court in the said case of ***Jalgaon Janta Sahakari Bank Ltd. v. Joint Commissioner of Sales Tax*** *(Supra),* the present Petition ought to be allowed.

5. It is brought to our notice that in this Petition on 16th December 2025, the Division Bench of this Court had directed the Petitioner-Bank to file an additional affidavit to give the details of the manner in which the properties were put to auction under the provisions of the Securitisation Act and as to the details of the valuation reports obtained while undertaking the said action. It is submitted that an additional affidavit along with the documents was placed on record. Attention of this Court was further invited to the six attempts made for auction of the properties, including the subject property located in Gat No.1537, village Chikhali, Pimpri Chinchwad , Dist. Pune. It is submitted that this Court may take into

consideration the contents of the said affidavit and documents to allow the present Petition.

6. On the other hand, the learned counsel appearing for Respondent No.1 submitted that even if the position of law may be in favour of the Petitioner-Bank, a perusal of the aforesaid MoU along with the notices issued by the Petitioner-Bank in the context of auction sale would show that such conditions were incorporated therein, which would ensure that no bidder would come forward for the auction sale. It was further submitted that the valuation of the said properties, even on the basis of the documents placed on record by the Petitioner-Bank, would show that the said MoU resulted in disposal of the properties at a much lesser rate. It was submitted that these aspects ought to be taken into consideration by this Court.

7. We have considered the rival submissions. The primary contention raised on behalf of the Petitioner-Bank is on the basis of its priority over the dues of Respondent No.1 under the amended provisions of the Securitisation Act and the position of law recognized by the Full Bench judgment of this Court in the case of ***Jalgaon Janta Sahakari Bank Ltd. v. Joint Commissioner of Sales Tax*** *(Supra).* In paragraph No.85 of the said judgment, the Full Bench categorically observed that the dues of the secured creditor shall have priority over all other dues including revenues, taxes, cesses and other rates payable to the Central Government, or State Government or local authority.

8. In view of the said position of law, we are convinced that the prior CERSAI registration of the Petitioner-Bank and the subsequent of issuance of notice by Respondent No.1 regarding its dues, completely covers the present case in favour of the Petitioner-Bank. There can be no dispute that the dues of the Petitioner-Bank have priority over those of Respondent

No.1.

9. Once this conclusion is reached, there can be no impediment in allowing the Petition, to the extent of directing removal of the encumbrance/charge shown in the revenue record with regard to Gat No.1537 and a direction to restrain Respondent No.1 from interfering in any manner with regard to the disposal of the said property in terms of the aforementioned MoU.

10. It is pertinent to note that a Co-ordinate Division Bench of this Court held in favour of the Petitioner-Bank with regard to one of the properties forming subject matter of the very same MoU on the basis of the law laid down by the Full Bench of this Court in the aforementioned judgment. This further strengthens the case of the Petitioner-Bank for the present Petition to be allowed.

11. As regards the apprehension expressed on behalf of Respondent No.1 that the disposal of the properties in terms of the MoU gives rise to suspicion about the manner in which the Petitioner-Bank proceeded, suffice it to say that Respondent No.1 is neither an aggrieved auction bidder, nor is the present Petition being considered in public interest jurisdiction to make any comments in that regard.

12. In any case, the affidavit filed on behalf of the Petitioner-Bank in pursuance of the order dated 16th December 2025 shows that the details of the six attempts at auction have been stated in the affidavit. No bidder came forward in the said attempts at sale through auction. In such a situation, in terms of the Securitisation Act, the said properties were disposed of by way of private treaty. The terms and conditions of sale mentioned in the auction sale notice do not give an impression to this Court that the Petitioner-Bank had deliberately made them so stringent

that no auction purchaser came forward.

13. In view of the above, we are not inclined to accept the submissions made on behalf of Respondent No.1. Accordingly, the Writ Petitioner is allowed. Consequently, the encumbrance/charge recorded in Mutation Entry No.28746 of Respondent No.1 in respect of Gat No.1537, village Chikhali, Pimpri Chinchwad, Dist. Pune is quashed. Consequently, the concerned authority shall execute the said direction within four weeks from today.

14. Prayer clause (B) in the Writ Petition is also granted, thereby restraining Respondent No.1 from interfering in any manner with regard to disposal of the said property in terms of the MoU.

15. The Writ Petition is disposed of in above terms.

16. Pending Interim Applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**