

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL WRIT PETITION NO.12998 OF 2018
WITH
CIVIL APPLICATION NO.18 OF 2019**

Mr.Raghavendra Shiva Mogaveera and Ors. ...Petitioners

vs.

The Recovery Officer, Securities and Exchange
Board of India and Ors.

...Respondents

Mr.Raghavan Sarath, Senior advocate a/w. Mr. Nikhil Waje, Mr. Tejas Luniya, Mr. Akhil Sarath i/b Thodur Law Associates for the Petitioners.

Mr.S. Rustamjee, Senior counsel a/w Ms. Vidhi i/b. The Law Point for Respondent No.1.

Mr.Venkatesh Dhond, Senior counsel a/w Mr. Ravi Hegde, Mr. Paras Parekh, Mr. Ashish Venugopal for Respondent No.17.

Mr. Vaibhav Bhure a/w Ms. Swati Singh, Ms. Shikha Dharia i/b Naik, Naik & Co. for Respondent No.19.

Mr.Sachin Punde for Respondent Nos.20 and 24.

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
DATE : 09/01/2019.**

P.C.:

1. Perused the order passed by this Court on 17/12/2018. Accordingly, reply affidavit has been tendered on record.

2. Learned counsel for the petitioners submits that data relevant for finding out how valuation of properties has been arrived at is not furnished and therefore he is not in position to effectively advance the case of his clients.

3. The petitioners 12 in number before this Court are the investors in Respondent No.3 Company whose assets are being auctioned to

recover the dues in excess of Rs.7000 crores.

4. Without prejudice to various objections raised in reply, learned counsel for Respondent No.1 and 2 upon instructions states that out of total 68 properties about 15 have already been auctioned and remaining 53 are in process. He states that if the petitioners keep the valuation data and reports secret, respondent Nos.1 and 2 can make available a copy thereof to learned counsel for the petitioners.

5. Learned counsel appearing for Respondent No.17 and 19 and for respondent Nos.20 and 24 submit that there have been several rounds of auction and after those rounds in which the upset price has been brought down, they have participated in e-auction and succeeded. However, because of interim order, they are not in position to take possession. They point out that on 8/11/2018 this Court has granted interim order and directed the parties to maintain status-quo.

6. During hearing we find that number of investors interested in proceeds of properties of Respondent No.3 is in excess of 50 lakhs. Out of sale of some properties of respondent No.4, respondent No.2 has recovered roughly around Rs.100 crores. Investors are entitled to receive that amount pari-passu. Respondent No.2 has stated that it is not in position to undertake that exercise due to interim orders of this Court.

7. Papers show that there have been 8 rounds of auction on various dates starting from 18/10/2017 till 18/9/2018. Respondent No.2 submits that in first round of auction the price disclosed by respondent No.3 company was itself accepted and accordingly 90% of it was worked out as reserve price. He also has explained how that price is required to be scaled down thereafter. We need not at this stage delve more into those details.

8. We find that before 8/11/2018, third party interests were already created in the matter.

9. The above 53 properties are still to be auctioned, we direct Respondent No.1 and 2 to permit representative of petitioners along with their advocate to inspect the valuation papers in relation to those properties. We also direct that such inspection in relation to 15 properties, which are already auctioned shall also be given.

10. This exercise shall be completed within 2 weeks from today subject to representative and petitioners giving an undertaking to this Court that data inspected by them shall be kept confidential.

11. As 15 auctions have already been completed, we permit successful auction purchasers to complete the transaction and to take possession. However, same shall be subject to further orders of this Court in the matter.

12. The purchasers entering possession shall not create third party interest until further orders in the matter.

13. In relation to remaining 53 properties though respondent Nos.1 and 2 may take necessary preparatory steps, actual auction shall not be conducted until further orders.

14. List the matter for further consideration on 29/1/2019.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION (St.) NO. 32540 OF 2018

Mr. Raghavendra Shiva Mogaveera and Ors. ... Petitioners.

V/s.

The Recovery Officer and Ors. ... Respondents.

Mr. Raghavan Sarthy a/w. I.V. Suryavanshi a/w. Nikhil Waje for the
Petitioners I/b. Thodur Law Associates.

CORAM : S.S. Shinde, J.

(VACATION COURT)

DATE : 8th November, 2018.

P.C. :-

Registry to register the Writ Petition subject to completion of procedural formalities and removal of office objections, if any.

2. The learned Counsel appearing for the Petitioners submits that Respondent Nos. 1, 2 and 4 are served by the Advocates notice on 6th November 2018. The learned Counsel has tendered across bar copy of the Advocates notice with

acknowledgement received from the office of Respondent No.2. There is another copy of Advocates notice served upon Respondent No.4. Same are taken on record.

3. Keeping in view urgency involved in the matter, list on 12th November 2018. Till next date i.e. 12th November 2018, ad-interim relief in terms of prayer clause (b) which reads as under :-

“(b) Pending the hearing and final disposal this Petition, this Hon'ble Court be pleased to restrain the Respondent No.1 from concluding the sale in respect of the properties sold by e-auction on 24th October 2018.”

4. In case, the sale in respect of the properties sold by way of e-auction on 24th October 2018 is not confirmed till date, once again the Petitioners to serve the Respondents and file affidavit of service.

(S.S. Shinde, J.)