

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13506 OF 2026

M/s. Sejal Feeds alias M/s. Sejal Foods
through Ashwini Rajenndra Dalvi & Anr.

...Petitioner

: Versus :

The State of Maharashtra, through The
Department of Co-operation and Ors.

...Respondents

Mr. Dhananjay B. Thokke, *for the Petitioner.*

Mr. Suresh Sabrad *with Ms. Neha Parte, Mr. Amey Sawant, Mr. Pratik Sabrad, Ms. Eshwanee Kudalkar, for Respondent Nos.4 and 5.*

Dr. Dhruti Kapadia, *AGP for State.*

Mr. Mahendra Kedare, Representative of Respondent Nos. 4 and 5-Bank is present in Court.

CORAM: SANDEEP V. MARNE, J.

DATED: 9 OCTOBER 2026.

P.C.:

1) The Petition challenges order dated 12 August 2026 passed by the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik (DJR) dismissing Revision Application No. 107/2026

filed by the Petitioner and confirming the order dated 27 March 2026 passed by the District Deputy Registrar (**DDR**) fixing the upset price of the property as Rs.3,84,23,000/-.

2) I have heard Mr. Thoke, the learned counsel appearing for the Petitioner, Mr. Sabrad for Respondent Nos.4 and 5 and Ms. Kapadia, for State and have considered the submissions canvassed by them.

3) Petitioner is aggrieved by fixation of upset price of the mortgaged property which is slated for sale for recovery of loan amount availed by them. The DDR has determined the upset price as Rs.3,84,23,000/-.

4) The upset price of Rs.3,84,23,000/- is based on the Valuation Report of Mr. Gunwant L. Chaudhari, Government Approved Valuer. On the other hand, Petitioner relied on Valuation Report of M/s. Srujan Architects (*Mr. Sarang G. Patil*) who suggested market value of the property at Rs.12,22,82,000/-.

5) Mr. Thoke, the learned counsel appearing for the Petitioner submits that the upset price is fixed in gross violation of the Third Proviso to Rule 107(11)(f) of the Maharashtra Co-operative Societies Act Rules, 1961 (**MCS Rules**). He submits that under that Proviso, the upset price needs to be approved by the Registrar by considering the comparative price prevailing in the markets, ready reckoner rates and by obtaining valuation from the approved valuer. Rule 107(11)(f) of the MCS Rules provides thus :

f) When any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The applicant shall, when the amount for the realisation of which the sale is held exceeds Rs. 100, furnish to the Recovery Officer) within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the 'Recovery Officer), as the case may be. The sale shall be by public auction to the highest bidder:

Provided that it shall be open to the Recovery Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other adequate reasons:

Provided further that, the Recovery Officer shall obtain prior approval of the Registrar to the upset price of movable and immovable property before publication of proclamation of sale:

Provided also that, upset price shall be approved by the Registrar by considering the comparative prevailing prices in the market, ready recokner rates, by obtaining valuation from the approved valuer within one month from the date of receipt of proposal from the Recovery Officer, after hearing the judgment debtor. Such approved upset price shall be valid for six months from the date of approval:]

Provided also that the Recovery Officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the defaulter consents to waive it.

The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the Recovery Officer:

Provided that in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village Talathi or corresponding officer in regard

to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records shall be accepted in place of an encumbrance certificate.

6) According to Mr. Thoke, the DDR cannot rely solely on the valuation report submitted by the credit society and it is incumbent for him to procure an independent valuation report. I am afraid the Third Proviso to Rule 107(11)(f) does not provide so. Under the provisions of Third Proviso to Rule 107(11)(f), the Registrar needs to have due regard to the valuation of the approved valuer. In the present case, the valuation report relied upon by the credit society is by the government approved valuer. In that sense, there appears to be no violation of Third Proviso to Rule 107(11)(f) of the MCS Rules.

7) Mr. Thoke further submits that the valuer of the society did not conduct independent valuation and based his valuation squarely on the old valuation report of Nabhangam Engineers dated 11 March 2021. True it is that the valuation report of Mr. Gunwant Chaudhari makes a reference to the old valuation report of Nabhangam Engineers dated 11 March 2021. However it appears that Mr. Gunwant Chaudhari conducted independent site visit and has not relied entirely upon on the valuation report of Nabhangam Engineers. Even otherwise, Mr. Gunwant Chaudhari has conducted independent valuation by applying unit rate of Rs.2750 per sq.mtr in respect of land admeasuring 13,972 sq.mts. It appears that the ready reckoner rate/government valuation is only Rs.930/- per sq.mtrs, according to which valuation of the land is only Rs.1,29,93,960/-. By applying the value of Rs.2,750/- per sq.mtr., the valuer of the society has determined the market value of the land at Rs.3,84,23,000/-.

8) The next complaint raised by Mr. Thoke is that the valuer of the society has altogether ignored the cost of the residential bungalow on the ground that the same comes under road widening. It appears that the society's valuer has twice indicated in his report that the valuation of the bungalow cannot be considered on account of the fact that the same comes under road widening. In this regard, in Item-6 of the report, the valuer has observed thus :

6. As the Residential Bungalow is Under Proposed Road Widening area. I have not Considered Residential bungalow for Valuation Purpose.

9) Similarly, under Item-10(6), the Valuer has stated thus :

As the Residential Bungalow is Under Proposed Road Widening area, I have not Considered Residential bungalow for Valuation Purpose.

10) However, *prima-facie* there is nothing on record to indicate that the residential bungalow comes under road widening area. It also appears that Petitioner had specifically raised the objection that the bungalow does not come under road widening in his revision petition. The DJR has however altogether ignored this objection raised by the Petitioner.

11) If the valuation report of Petitioner's valuer is taken into consideration, the value of the bungalow admeasuring 240 sq.mts is indicated by him as Rs.41,04,000/-. With a view to avoid any further delay in sale of the property, Mr. Sabrad has suggested that the value of bungalow of Rs.41,04,000/- indicated in the report of Petitioner's valuer be added in the upset value determined by the DDR. This

suggestion made by Mr. Sabrad quells the objection sought to be raised on behalf of the Petitioner about ignorance of value of the constructed bungalow. Accordingly, the value of the constructed bungalow of Rs.41,04,000/- can be added to the upset price of Rs.3,84,23,000/-, which would increase the upset price to Rs.4,25,27,000/-. Beyond this, I am not inclined to grant any relief in favour of the Petitioners since the valuation otherwise appears to be valid.

12) Mr. Thoke submits that since the upset price is being modified, the Proclamation for Sale published vide Notice dated 9 September 2026 be set aside and the Society be directed to issue a fresh proclamation of sale. However, Mr. Thoke is unable to point out any specific provision of law which requires maintenance of any time gap between fixing of upset price and conduct of auction process. In the present case, proclamation for sale has already been made vide Notice dated 9 September 2026. All that is being done is to only modify the upset price indicated therein. This Court is proposing to direct issuance of a Corrigendum to the proclamation of sale only to the extent of revision of upset price. In my view therefore, there is no necessity of issuance of fresh proclamation in the facts and circumstances of the present case.

13) This Court also notices conduct on the part of the Petitioner and his relatives in repeatedly delaying sale of the mortgaged asset. After trying his own luck in challenging the Recovery Certificate by filing Writ Petition No.2267 of 2025, which was dismissed by order dated 19 September 2025, Petitioner's brother-in-law Mr. Prakash Onkar Patil filed Writ Petition No. 7758 of 2026 complaining that he is the lessee in respect of mortgaged land and therefore the sale thereof

cannot be conducted. The objection raised by the Petitioner's brother-in-law was required to be adjudicated by the society in pursuance of order dated 25 June 2026 passed in Writ Petition No.7758 of 2026. After the objection was repelled, sister of the Petitioner, Ms. Manjusha Satish Patil appeared on the scene and raised objection to the sale. She filed Writ Petition No. 8721 of 2026 and the Recovery Officer was required to decide the objections raised by her as well. It is after defending repeated litigations filed by the Petitioners and their relatives that the sale is ultimately going to be fructified on 12 October 2026. In my view therefore, it is not necessary to postpone the auction sale any further, merely because the upset price is being modified.

14) In view of the above discussion, I proceed to pass the following order :

- i.** Orders dated 12 August 2026 passed by the DJR and order dated 27 March 2026 passed by the DDR are modified by directing that the upset price of the property shall be Rs.4,25,27,000/-.
- ii.** Respondent No.4-Recovery Officer shall accordingly issue a Corrigendum to the proclamation of sale by indicating the upset price of the property as Rs.4,25,27,000/-.
- iii.** Since the auction is already slated to be held on 12 October 2026, Notice shall be published indicating the revised upset price in the newspapers on 10 October 2026.

15) It is specifically clarified that except modifying the upset price, this Court has not interfered in the auction process slated to be conducted on 12 October 2026 in any manner and Respondent No.4 shall proceed to conduct the auction on 12 October 2026 as originally planned.

16) With the above directions, the Writ Petition is **partly allowed and disposed of.**

[SANDEEP V. MARNE , J.]