IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION/
CIVIL APPELLATE JURISDICTION

WRIT PETITION (L) NO. 15997 OF 2024 (Sr. No. 25)

Union bank Of India . Petitioner

Vs.

The Deputy Commissioner Of State Tax . Respondent

WITH
WRIT PETITION (L) NO. 21078 OF 2024

Union bank Of India . Petitioner

Vs.

Superintendent Of The Central Excise . Respondent

WITH
WRIT PETITION (L) NO. 31148 OF 2024

Union bank Of India . Petitioner

Vs.

DY commissioner of the sales tax E 303 nodal 13 . Respondent

WITH
WRIT PETITION (L) NO. 31453 OF 2024

Union bank Of India . Petitioner

Vs.

The Deputy Commissioner Of State Tax . Respondent

WITH
INTERIM APPLICATION (L) NO. 39495 OF 2025
IN
WRIT PETITION (L) NO. 31453 OF 2024

Geeta C. Chandra Petitioner

Vs.

Deputy Commissioner Of State Tax Respondent

WITH
WRIT PETITION NO. 8103 OF 2025 (Sr. No. 26)

Ajay Satishrao Jadhav Petitioner

Vs.

The State of Maharashtra & Ors Respondents

WITH
WRIT PETITION NO. 3350 OF 2026

Mangesh Vasant Patwardhan & Ors Petitioners

Vs.

The State of Maharashtra & Ors Respondents

WITH
WRIT PETITION NO. 13658 OF 2024

Janseva Sahakari bank Ltd Thr Its Authorised Officer Petitioners

Vs.

The State of Maharashtra & Ors Respondents

Mr. Malhar Zatakia, a/w Mr. Deepak Saxena (through VC), a/w Mr. Shyam Sarangi, a/w Mr. Ayman Khan and Ms. Roshni Dumpala, i/b Legal Prism for the Petitioners in WP(L)/15997/2024, WP(L)/21078/2024, WP(L)/31148/2024 and WP(L)/31453/2024.

Mr. Anshul Anjarekar, i/b Raval Shah & Co. for the Intervener in IA(L)/39495/2025.

Ms. Anjali Helekar, G.P. a/w Ms. Jyoti Chavan, Addl G. P. and Ms. Nazia Sheikh, AGP for Respondent/State in WP(L)/15997/2024.

Ms. Anjali Helekar, G. P. a/w Ms. Jyoti Chavan, Addl G. P. and Mr. Amar Mishra, AGP for Respondent/State in WP(L)/21078/2024.

Ms. Anjali Helekar, G. P. a/w Mr. Mohit Jadhav, Addl G. P. and Mr. Himanshu Takke, AGPs, for Respondent/State in WP(L)/31148/2024.

Ms. Anjali Helekar, G. P. a/w Mr. Vishal Thadhani, Addl G. P. and Mr. Amar Mishra, AGPs, for Respondent/State in WP(L)/31453/2024.

Mr. Raghunath Gawde, for Respondent No. 5 in WP(L)/15997/2024.

Mr. Nikhil Rajani, i/b M/s V. Deshpande & Co., for Petitioner in WP/8103/2025.

Mr. Sarthak Diwan, for Petitioner in WP/3350/2026.

None for the Petitioner in WP/13658/2024.

Mr. Dheer Sampat (through VC), i/b M. V. Kini & Co. for Respondent No. 3 in WP/8103/2025.

Mr. Malhar Zatakia, a/w Mr. Deepak Saxena (through VC), a/w Mr Shyam Sarangi, a/w Mr. Ayman Khan and Ms. Roshni Dumpala, i/b Legal Prism for Respondent No. 6 in WP/8103/2025.

Ms. S. D. Vyas, Addl. G. P. for the Respondent/State in WP/8103/2025.

Ms. G. R. Raghuwanshi, AGP for the Respondent/State in WP/3350/2026.

Mr. R. S. Pawar, AGP for the Respondent/State in 13658/2024.

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

DATE : 13th JULY 2026.

ORAL JUDGMENT (PER MANISH PITALE J.)

1. Heard learned counsel for the parties.

2. There are seven writ petitions for consideration before this Court concerning a common issue with regard to the priority of the dues of secured creditors over and above statutory dues as claimed by various departments of the Respondent State. During the course of hearing, we realised that there was no appearance on behalf of the Petitioner in Writ Petition No. 13658 of 2024, i.e. Janseva Sahakari bank Ltd. Therefore, the said Writ Petition No. 13658 of 2024 is de-tagged from these petitions and it shall be heard separately. The said writ petition shall be taken up for further consideration on 24th August 2026, 'High on Board.'

3. That leaves six writ petitions for consideration in this bunch of writ petitions, which concern the aforementioned common issue.

4. Four writ petitions are filed by the Union bank of India (secured

creditor) and two writ petitions are filed by auction purchasers. The Petitioners are aggrieved by attachment orders issued by various departments of the Respondent State, letters of intimation to societies, wherein the secured assets are located and also the recording of a boja/encumbrance in the revenue record pertaining to the subject properties.

5. The Petitioners claim that in the light of the position of law clarified by a Full Bench of this Court in the case of ***Jalgaon Janta Sahakari bank Ltd & Anr. v. Joint Commissioner of Sales Tax & Anr.*** [2022 SCC OnLine Bom 1767] and subsequent orders passed by various Division Benches of this Court, the objections sought to be raised on behalf of the Respondent State through various departments are unsustainable and that the writ petitions deserve to be allowed in terms of the prayers made therein.

6. The Full Bench of this Court in the aforesaid judgment in the case of *Jalgaon Janta* (supra) considered the effect of amendment dated 24/01/2020 brought about in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest, 2002, (SARFAESI Act). Various questions arose for consideration, including questions concerning objections raised by various departments of the Respondent State with regard to the priority of dues. After considering the contentions raised on behalf of the Respondent State, the Full Bench in the aforesaid judgment of this Court came to the conclusion that the dues of secured creditors under

the provisions of the SARFAESI Act would have priority. Various aspects were considered, which in our opinion, answer the objections that are raised on behalf of the State in these petitions also.

7. A perusal of the reply affidavits and additional affidavits filed on behalf of the Respondent State through various departments in these writ petitions shows that the objections pertain to the use of the expression “notwithstanding anything to the contrary contained in any law” as found in the Maharashtra Goods and Services Tax Act, 2017 (MGST Act), an amendment brought about in the Maharashtra Value Added Tax Act (MVAT Act) in Section 37 and an objection with regard to situations where the attachment orders issued by the Respondent State pertain to a period prior to 24/01/2020, i.e. the date on which the aforesaid amendment was brought about in the SARFAESI Act. It is claimed on behalf of the Respondent State that even if the Full Bench judgment in the case of *Jalgaon Janta* (supra) is taken into consideration, the petitions ought not to be allowed.

8. We have considered the objections raised on behalf of the Respondent State through various departments. We find that the objections can be answered on the basis of the aforesaid Full Bench judgment itself. The subsequent judgments rendered by various Division Benches of this Court have further clarified the ratio of the Full Bench judgment and therefore, it would be appropriate to refer to the relevant portions of the aforementioned

judgments.

9. As regards the objection raised on behalf of the Respondent State by relying upon Section 82 of the MGST Act, reference to paragraphs 25 onwards of the Full Bench judgment would be appropriate. As a matter of fact, Section 82 of the MGST Act was specifically quoted in paragraph 25 of the Full Bench judgment of this Court and thereupon, the contention was dealt with in paragraphs 81 onwards of the said Full Bench Judgment. Prior thereto, in paragraph 44, a question was framed as follows:

> *"(a) Having regard to the statutory provisions under consideration, does a secured creditor (as defined in the SARFAESI Act and the RDDB Act) have a prior right over the relevant Department of the Government (under the BST Act/MVAT Act/MGST Act) to appropriate the amount realized by the sale of a secured asset ?"*

10. Having framed the said question, this Court in the Full Bench Judgment referred to the aspect of "first charge" mentioned in multiple State Legislations and thereupon, observed as follows:

> *"82. Each of the aforesaid several legislations operate in their particular field. Pertinently, wherever the Legislature of the State intended the particular provision to be the dominant legislation or subordinate or subservient to any other legislation, it has expressed such an intention in no uncertain terms. Section 169(1) of the MLR Code is the dominant legislation providing that the arrears of land revenue due on account of land shall be a paramount charge on the land and on every part thereof and shall have precedence over any other debt, demand or claim*

whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land for the holder thereof. The municipal laws and the MRTP Act, however, despite creation of first charge on property taxes due to the Corporations and sums due to a planning authority, respectively, are expressly made subordinate to the paramount charge on a land if in respect of such land, land revenue is in arrears. Viewed from this angle, there is no magic in the words "first charge". Even a "first charge", by express statutory intendment, can be made subordinate or subservient to a paramount charge such as arrears of land revenue. We, therefore, are unable to accept the argument of the State/respondents that since neither the SARFAESI Act nor the RDDB Act uses the words "first charge" but the word "priority", such "priority" cannot have precedence over "first charge" created by the State legislations.

83. However, notwithstanding that section 169(1) of the MLR Code is the dominant legislation and does not expressly say that it would be subordinate or subservient to any Central Act creating "first charge", nothing really turns on it. The express language of section 26E of the SARFAESI Act and section 31B of the RDDB Act, wherever applicable, is sufficient to off- set the "paramount charge" created by sub-section (1) of section 169. Similarly, even if there were no express intendment in the relevant provisions of the BST Act (section 38C) and the MVAT Act (section 37) to the effect that such provisions would be subordinate to any Central Act creating "first charge", the same would obviously have to be read, invoked and exercised subject to section 26E of the SARFAESI Act and section 31B of the RDDB Act, wherever applicable.

84. The fact that the BST Act and the MVAT Act, which are under consideration, expressly make it subordinate or subservient to any Central legislation creating first charge cannot be ignored. The 2016 Amending Act being of recent origin, the first query that arises in this

> *regard is : did Parliament not know that there is a plethora of legislation in the country, both Central and State, that speaks of creation of "first charge" in favour of a Department of the Central/State Government ? The reply cannot but be in the affirmative. The next query that would obviously follow is : whether the word "priority" appearing in section 26E of the SARFAESI Act, i. e., "… paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority" (italics for emphasis by us), was used without a purpose ? This reply has to be in the negative.*
>
> *85. Priority means precedence or going before (Black's Law Dictionary). In the present context, it would mean the right to enforce a claim in preference to others. In view of the splurge of "first charge" used in multiple legislation, Parliament advisedly used the word "priority over all other dues" in the SARFAESI Act to obviate any confusion as to inter se distribution of proceeds received from sale of properties of the borrower/dealer. If a secured asset has been disposed of by sale by taking recourse to the Security Interest (Enforcement) Rules, 2002 it would appear to be reasonable to hold, particularly having regard to the non obstante clauses in sections 31B and section 26E, that the dues of the secured creditor shall have "priority" over all other including all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority."*

11. We are of the opinion that in the light of the said findings rendered in the Full Bench Judgment of this Court, the objection raised on behalf of the Respondent State by relying upon expressions such as "notwithstanding anything to the contrary contained in any law," cannot be simply relied upon to deny relief to the Petitioners in these petitions. In the above quoted paragraph 85 of the Full Bench Judgment, it is categorically laid down that the dues of the secured creditor shall have priority over all others, including all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.

12. As regards the objection raised on behalf of the Respondent State that the attachment orders were issued prior to the amendment dated 24/01/2020 being brought about in the SARFAESI Act, the Full Bench in the aforesaid judgment specifically considered such a factual situation and held that even if that be so, the Respondent State would have to demonstrate on facts that after issuing the attachment order, it had taken all necessary steps under the Maharashtra Land Revenue Code, including issuance of proclamation and other steps contemplated therein. The relevant portion of the judgment of the Full Bench in the case of *Jalgaon Janta* (supra) in this context reads as follows:

> *"151. However, there could be attachments orders which might have been issued much prior to giving effect to the 2011 Rules, as amended. In respect of such orders of attachment, we consider it appropriate to express our views.*
>
> *152. The procedure to be followed in terms of the CPC when an immovable property is put up for auction sale to satisfy a decree of the court is to be found in Order 21, rules 54 and 66 of the CPC. It is mandatory for the court executing the decree, to comply with the following stages before such property is sold in execution of a particular decree :*

(a) attachment of the immovable property;

(b) proclamation of sale by public auction;

c) sale by public auction.

At each stage of the execution of the decree, when a property is sold, it is mandatory that notice shall be served upon the person whose property is being sold in execution of the decree, and any property which is sold, without notice to the person whose property is being sold, is a nullity and all actions pursuant thereto are liable to be struck down/quashed. However, the proceedings before us do not concern execution of any decree.

153. In these proceedings we are as much concerned with proclamation itself as much with attachment. Insofar as recovery pursuant to the MLR Code is concerned, not only the provisions contained therein but also the provisions contained in the 1967 Rules are to be complied with. Simply ordering an attachment is not enough; a proclamation has to be issued in the prescribed form and such proclamation must be made public by beating of drum and such other mode as specified in section 192 of the MLR Code and rule 11(2) of the 1967 Rules before the property attached is sold.

154. We are of the considered opinion, on facts and in the circumstances, that unless attachment of the defaulter's immovable property is ordered in the manner ordained by the MLR Code and as prescribed by the MRLR Rules and due proclamation thereof is made, even the creation of charge on such immovable property may not be of any real significance, not to speak of demonstrating with reference to evidence that the transferee had actual or constructive notice of such charge. If there has been an attachment and a proclamation thereof has been made according to law prior to January 24, 2020 or

> *September 1, 2016, i. e., the dates on which Chapter IV-A of the SARFAESI Act and section 31B of the RDDB Act, respectively, were enforced, the Department may claim that its dues be paid first notwithstanding the secured dues of the secured creditors; but in the absence of an order of attachment being made public in a manner known to law, i. e., by a proclamation, once Chapter IVA of the SARFAESI Act or section 31B, as the case may be, has been enforced, the dues of the secured creditor surely would have "priority". In other words, if the immovable property of the defaulter is shown to have been attached in accordance with law prior to Chapter IVA of the SARFAESI Act, or for that matter section 31B of the RDDB Act, being enforced, and such attachment is followed by a proclamation according to law, the "priority" accorded by section 26E of the former and section 31B of the latter would not get attracted.*
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> *Answer to question (g)"*

13. In the reply affidavits filed in these writ petitions, the Respondent State has failed to demonstrate that it complied with the aforementioned specific statutory requirements as noted in the above quoted portion of the Full Bench Judgment and therefore, the objection pertaining to the attachment orders being prior to the amendment being brought about in the SARFAESI Act, also deserves to be rejected.

14. As regards the contention raised on behalf of the Respondent State by relying upon the amendment of Section 37 of the MVAT Act, such a specific contention was considered and rejected by a Division Bench of this Court in the case of ***bank of Baroda v. Assistant Commissioner of Sales Tax & Anr.***

(judgment and order dated 11th September 2025 passed in Writ Petition (L) No. 3959 of 2025). After taking note of the law laid down by the Full Bench of this Court in the case of *Jalgaon Janta* (supra) and upon specifically referring to the amendment of Section 37 of the MVAT Act, the Division Bench of this Court in the said judgment held as follows:

> *"13. Relevant in the context of the present case and as is the emphasis of the learned AGP in support of his contention that the State dues will have priority over other dues, it will be advantageous to extract amended Section 37 of the MVAT Act for convenience. Section 37 reads thus :-*
>
> > ***"37. Liability under this Act to be the first charge -***
> >
> > *(1) Notwithstanding anything contained in any law for the time being in force, or any contract to the contrary, any amount of tax, penalty, interest, sum forfeited, fine or any other sum, payable by a dealer or any other person under this Act, shall be first charge on the property of the dealer or, as the case may be, person.*
> >
> > *(2) The first charge as mentioned in sub-section (1) shall be deemed to have been created on the expiry of the period specified in sub-section (4) of section 32 for the payment of tax, penalty, interest, sum forfeited, fine or any other amount.*
>
> *14.In our opinion, the issue involved in the present case is squarely covered by the decision of the Full Bench of this Court in Jalgaon Janta Sahakari bank Ltd. & Anr. (supra). The Full Bench has conclusively settled the legal position*

regarding priority of claims between secured creditors and State revenue authorities. It has been authoritatively held that "In view of the introduction of Section 26E of the SARFAESI Act and Section 31B of the Recovery of Debts Due to banks and Financial Institutions Act, 1993 ("RDDB Act", for short), secured creditors have statutory priority in realization of dues from the sale of secured assets, over and above all other debts including government revenues, taxes, cesses and rates, subject only to compliance with the statutory conditions, such as registration under the SARFAESI Act.

15.The Full Bench rejected the contention that the phrase "priority in payment" under Section 26E falls short of creating a first charge. It ruled that, "Statutory priority given to secured creditors under the SARFAESI and RDDB Acts shall override any charge created under State laws, including Sections 37 and 38C of the MVAT Act and Bombay Sales Tax Act ("BST Act", for short) respectively, in view of their express subordination to Central enactments."

16.The bank has registered its security interest with CERSAI on 30th June 2012, which is very much prior to the attachment order dated 18th March 2020 of the department. Therefore, in view of the legal position settled by the Full Bench, the bank has priority to realize its dues.

17.The unamended Section 37 of the MVAT Act made the MVAT Act expressly subordinate or subservient to any central legislation creating first charge and by way of amendment, the State of Maharashtra has in essence only removed such subordination or subservience to the central legislation. The Full Bench discussed and dealt with similar provisions and *scenario at length in paragraphs 81 to 92. The Full Bench in paragraph 82 and 83 observed thus :-*

> *"82. Each of the aforesaid several legislations operate in their particular field. Pertinently, wherever the legislature of the State intended the particular provision to be the dominant legislation or subordinate or subservient to any other legislation, it has expressed such an intention in no uncertain terms. Section 169(1) of the MLR Code is the dominant legislation providing that the arrears of land revenue due on account of land shall be a paramount charge on the land and on every part thereof and shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land for the holder thereof. The municipal laws and the MRTP Act, however, despite creation of first charge on property taxes due to the Corporations and sums due to a planning authority, respectively, are expressly made subordinate to the paramount charge on a land if in respect of such land, land revenue is in arrears. Viewed from this angle, there is no magic in the words 'first charge'. Even a 'first charge', by express statutory intendment, can be made subordinate or subservient to a paramount charge such as arrears of land revenue. We, therefore, are unable to accept the argument of the State/respondents that since neither the SARFAESI Act nor the RDDB Act uses the words 'first charge' but the word 'priority', such 'priority' cannot have*

precedence over 'first charge' created by the State legislations.

83.However, notwithstanding that section 169(1) of the MLR Code is the dominant legislation and does not expressly say that it would be subordinate or subservient to any Central Act creating 'first charge', nothing really turns on it. The express language of section 26E of the SARFAESI Act and section 31B of the RDDB Act, wherever applicable, is sufficient to off-set the 'paramount charge' created by sub-section (1) of section 169. Similarly, even if there were no express intendment in the relevant provisions of the BST Act (section 38C) and the MVAT Act (section 37) to the effect that such provisions would be subordinate to any Central Act creating 'first charge', the same would obviously have to be read, invoked and exercised subject to section 26E of the SARFAESI Act and section 31B of the RDDB Act, wherever applicable."

18.We are therefore in agreement with the contention of learned counsel for the Petitioner that where a secured creditor has registered its security interest under the SARFAESI Act, the claim of such secured creditor must prevail. We have no hesitation in holding that the bank has priority in realization of dues over the dues of the department. The department having even failed to register its charge with CERSAI cannot claim any first charge over the said secured asset."

15. The said position of law was recently followed by this Court in an

order dated 06/07/2026 passed in Writ Petition (L) No. 21301 of 2024 **(M/s. *Leon Laboratories v. The Deputy Commissioner of Sales Tax & Ors*)**. After relying upon the said judgment of the Division Bench of this Court in the case of *bank of Baroda (supra)*, an identical contention was rejected and the writ petition was allowed.

16. It is pertinent to note that in one of the petitions, an objection was also raised on behalf of the Respondent State that since the auction purchaser had purchased the subject property in an auction sale conducted on as is where is whatever is basis, the auction purchaser cannot be permitted to turn around and contest the steps taken by the concerned department of the Respondent State in respect of the property in question.

17. In this context, we are in agreement with the learned counsel appearing for the Petitioner in Writ Petition No. 8103 of 2025, filed by an auction purchaser, by inviting attention of this Court to Paragraphs 177 to 184 of the Full Bench judgment of this Court in the case of *Jalgaon Janta* (supra). We find that in such situations, where the auction purchaser after having paid the entire consideration and a sale certificate having been issued in its favour, is entitled to enjoy the fruits thereof and the Respondent State cannot claim any boja/encumbrance in the revenue records. The existence of such a boja/ encumbrance adversely affects the rights of such an auction purchaser and therefore, the writ petitions filed on behalf of the auction

purchasers have been entertained and considered by this Court.

18. We also find substance in reliance placed on behalf of the auction purchaser on the judgment of this Court in the case of *Indian Overseas bank v. Deputy Commissioner of Sales Tax,* wherein it was categorically held that the State cannot be heard to say that even if the secured creditor has taken steps under the SARFAESI Act and sold the secured asset, the State has the authority to again chase the said asset in order to realise its dues. The relevant observations from the judgment in the case of Indian Overseas bank v.. Deputy Commissioner (supra) are as follows:

> *"35. As a last ditch-effort, Mrs. Vyas presented us with a unique proposition. It was her contention that notwithstanding the fact that the secured creditor has the first charge and priority for recovery of dues from the sale of the secured asset, the MVAT Authorities can once again chase the very same asset in the hands of the purchaser and put it up for sale towards recovery of their dues.*
>
> *36. Such a proposition has only to be stated to be rejected. The creation of the mortgage over the asset would mean that the charge is over the asset. Once the security interest is enforced, the asset would no longer be available for further enforcement. The proposition canvassed by Mrs. Vyas would render Section 26-E meaningless, because if that were the legal position, the creation of priority in favour of the secured creditor would have no meaning. Put differently, according to the proposition suggested, the secured creditor would first enforce its charge against the asset and thereafter*

> *the MVAT Authorities would yet again enforce their charge against the very same asset to recover their dues. Thereafter if there are other security interests with an inferior priority, every single beneficiary of every such security interest would keep enforcing their security interest against the very same asset. Such an absurd proposition turns on its head, the very meaning of having a security interest over an asset in priority over others. Needless to say, no person in his right mind would ever bid for an asset against which enforcement of multiple charges is contemplated. This because he would have to face the endless queue of subsequent enforcement actions against the very same asset. To underline the absurdity, for example, if the secured asset were being sold when its market value is Rs.5 Crores and the dues of the MVAT Authorities are Rs.10 Crores, a potential purchaser of the property would effectively have to be ready to pay Rs.15 Crores for the property worth Rs.5 Crores. This would indeed be absurd to say the least. We therefore have no hesitation in rejecting this argument canvassed by Mrs. Vyas."*

19. We find that in the light of the position of law clarified by the Full Bench judgment in the case of *Jalgaon Janta* (supra) and the Division Benches of this Court in the subsequent judgments, the writ petitions in this present batch deserve to be allowed. A reference to the relevant facts of the individual writ petitions would be appropriate in this backdrop.

20. In Writ Petition (L) No. 15997 of 2024, the security interest of the Petitioner bank (secured creditor) was registered with the Central Registry of

Securitisation Asset Reconstruction and Security Interest of India (CERSAI) as far back as on 13/01/2015. The impugned order of attachment issued by the department of the Respondent State was dated 19/08/2022 pertaining to alleged dues for the period 2012-13 to 2017. Even though the Respondent State by the said letter/order dated 10/08/2022 is claiming dues for the period between 2013-2017, we find that the said letter/order itself being subsequent to the amendment dated 24/01/2020 brought about in the SARFAESI Act, the charge of the concerned department of the State ought to have been registered with CERSAI. Admittedly the charge is not registered with CERSAI. In any case, even if it is to be treated as a case of dues prior to the amendment being brought about in SARFAESI Act, the Respondent State has failed to demonstrate that it took necessary steps beyond issuance of such letter/order of attachment. In the reply affidavit filed in the writ petition, the Respondent State failed to place on record any material to show that a proclamation etc. as contemplated under the provisions of the relevant statute was ever issued. Therefore, the writ petition deserves to be allowed as the dues of the Petitioner bank being secured creditor have priority over the dues of the Respondent State. In that light, Writ Petition (L) No. 15997 of 2024 is allowed in terms of prayer clause (a) and the impugned letter/order dated 10/08/2022 is quashed and set aside.

21. In Writ Petition (L) No. 15997 of 2024, it is brought to our notice that on the basis of the impugned attachment order, the Respondent No. 5 society has received three intimation letters from the concerned department of the Respondent State. Since we have quashed and set aside the impugned order dated 10/08/2022, all such intimation letters issued by the concerned department of the Respondent State to Respondent No. 5 Society consequently also stand set aside.

22. In Writ Petition (L) No. 21078 of 2024, the Petitioner is a bank (secured creditor), praying for quashing and setting aside of the orders dated 16/11/2015 and 23/06/2016 passed by the Deputy Commissioner of Sales Tax with regard to the dues of the said department, in the context of a property which is the secured asset of the Petitioner bank. This writ petition deserves to be considered with Writ Petition No. 3350 of 2026, wherein the Petitioner is the auction purchaser of one of the secured assets.

23. In the said case, the security interest of the petitioner bank was registered with CERSAI on 29/06/2007, while the registration of the charge of the concerned department of Respondent State is dated 06/01/2025. The registration in favour of the Petitioner bank is obviously much prior to the registration of the charge of the concerned department of the State.

24. In any case, the impugned orders dated 16/11/2025 and 23/06/2016 purportedly assert rights in respect of the secured assets for the period between 2009 to 2014. Even if this is to be treated as a case of dues prior to the amendment in the SARFAESI Act dated 24/01/2020, there is nothing

placed on record to show that beyond issuing the impugned orders, the Respondent State in any manner satisfied the requirement of issuance of proclamation and other such compliances to justify resistance to the prayers made in the aforesaid writ petitions.

25. In the light of the above Writ Petition No. 21078 of 2024 is allowed in terms of prayer clause (a). Hence the impugned orders dated 16/11/2015 and 23/06/2016 are quashed and set aside.

26. Writ Petition No. 3350 of 2026 is also allowed in terms of prayer clause (a), thereby quashing and setting aside the impugned order dated 23/06/2016. Needless to say the writ petition having been allowed, the Respondent State authorities shall also take steps to remove any boja/ encumbrance shown in the revenue records with regard to the secured assets.

27. In Writ Petition (L) No. 31148 of 2024, the record shows that the CERSAI registration of security interest of the Petitioner bank is dated 14/05/2012. The attachment order of the concerned department of the Respondent State with regard to its dues is dated 21/02/2018 and a letter addressed to the society, wherein the secured asset is located is dated 20/02/2018. In the writ petition, the Petitioner has prayed for quashing of the said letter addressed to the society as well as the attachment order.

28. We find that the Respondent State, through its concerned department, has not been able to demonstrate that beyond issuing the attachment order dated 21/02/2018, further steps such as issuance of proclamation and other compliances noted in the aforesaid Full Bench Judgment of this Court, had been ensured. As a consequence, mere issuance of the impugned attachment order dated 21/02/2018 and letter/communication to the society dated 20/02/2018 cannot be sustained and the priority of the dues of the Petitioner bank has been established.

29. In view of the above, Writ Petition (L) No. 31148 of 2024 is allowed in terms of prayer clause (a) and the impugned letter dated 20/02/2018 as well as the impugned attachment order dated 21/02/2018 are quashed and set aside.

30. In Writ Petition (L) No. 31453 of 2024, the Petitioner bank (secured creditor) is aggrieved by an intimation notice dated 19/10/2023, issued by the concerned department of the Respondent State and an attachment order dated 03/06/2024. The documents placed on record show that the security interest on the Petitioner bank was registered with CERSAI as far back as on 10/08/2011. The impugned intimation notice dated 19/10/2023, letter dated 30/04/2024 and the attachment order dated 03/06/2024 have been issued much later. Although the charge of the concerned department of the Respondent State is said to have been registered with CERSAI on

20/07/2024, the same is also more than a decade after the CERSAI registration of the security interest of Petitioner bank on 10/08/2011.

31. In any case, even if the dues of the concerned department of the Respondent State pertain to the years prior to the amendment being brought about in the SARFAESI Act, as noted hereinabove, the State was required to demonstrate that it had complied with all requirements, including issuance of proclamation etc. Since such requirements have not been satisfied, the said petition also deserves to be allowed.

32. In this petition, Interim Application (L) No. 39495 of 2025 has been filed by the auction purchaser, which essentially supports the prayer made in the writ petition. Hence, we allow the intervention application. We have heard the learned counsel appearing for the auction purchaser and we are satisfied that the writ petition deserves to be allowed in terms of the prayer made therein.

33. Accordingly, Writ Petition (L) No. 31453 of 2024 is also allowed in terms of prayer clause (a). Consequently, the impugned intimation notice dated 19/10/2023, the letter dated 30/04/2024 and the attachment order dated 03/06/2024 are quashed and set aside.

34. In Writ Petition No. 8103 of 2025, the Petitioner is an auction purchaser aggrieved by the boja/encumbrance recorded in the revenue

record pertaining to the subject property, which was purchased by the Petitioner in an auction sale conducted by the Respondent No. 6 bank (secured creditor). The documents on record show that the Respondent No. 6 bank had registered its security interest with CERSAI on 27/08/2014. The charge of the concerned department of the Respondent State, i.e. the Respondent No. 2 was registered much later with CERSAI on 06/01/2025. The auction was conducted on 09/03/2025 and the sale certificate was duly issued in favour of the Petitioner on 16/04/2025.

35. Due to the existence of the boja/encumbrance in the revenue record pertaining to the subject property, the petitioner is facing prejudice. We find that in the light of the law laid down in the Full Bench judgment of this Court, particularly pertaining to the manner in which the rights of the auction purchaser are to be considered even if the auction sale is conducted on as is where is,whatever basis, the Petitioner has made out a case in his favour. The concerned department of the respondent in such circumstances is not justified in recording boja/encumbrance in respect of the subject property in the revenue record.

36. The Respondent State has failed to demonstrate that all the necessary steps, including proclamation and necessary compliances were satisfied to justify resistance to the prayers made in the present writ petition.

37. In view of the above, the said writ petition is allowed in terms of

prayer clause (a) (I, II, and III).

38. In the light of the writ petitions being allowed, the Respondent State shall take all consequential steps, including removing any Boja/encumbrance shown against the secured assets in the revenue record.

39. Pending Applications, if any, in the said writ petitions stand disposed of.

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