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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5570/2017 & C.M. Nos.23392-93/2017

KRISHAN CHANDER GULIA

..... Petitioner

Through Mr. Pankaj Garg, Mr. Milind Garg,
Mr. A.S. M. Tripathi and Ms. Mansi
Batra, Advs.

versus

VIJAYA BANK, ARMB BRANCH & ANR

..... Respondents

Through: Mr Kush Sharma and Mr Lalit
Mohan, Advs.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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01.08.2017

Petitioner is aggrieved by the letter dated 19.06.2017 vide which the amount of Rs. 23, 85000/- deposited by the petitioner in the e-auction (held on 14.06.2017) wherein he was declared as successful bidder; but the said amount stood forfeited. The petitioner is aggrieved. His submission is that he had deposited the earnest money in terms of the auction; he had written a letter to the bank on 15.06.2017 which was followed by an email asking the bank to allow him to inspect the documents of the property but this was not permitted. Emphasis is made on the aforementioned letter dated 15.06.2017; submission being reiterated that even in this letter the intent of the petitioner to pay the amount to the bank was evident; he just wanted to inspect the records. The illegal forfeiture of his earnest



money is liable to be set aside.

On advance notice, learned counsel for the respondent has put in appearance. His submission is that these are disputed questions of fact and cannot be adjudicated upon in the writ petition. This petition is not maintainable that apart from merits it is stated that inspection of the record of the property had been given to the petitioner; the respondent, however, does not have the complete record with him. He will take instructions on this count and produce the record relating to this case on the next date. Counter affidavit, if any, will also be filed within four weeks with advance copy to the petitioner. Rejoinder, if any, be filed before the next date.

Further submission of the respondent is that the intent of the petitioner to pay the amount is not borne out from the fact that the petitioner had in fact given instructions to stop payment on the 25% amount which had to be deposited qua the auction bid; only 10% of the amount has been deposited which was the earnest money; for the balance there was instructions to the bank to stop payment. This submission shall be answered by the petitioner on the next date after taking appropriate instructions.

At this stage, learned counsel for the petitioner submits that he is still willing to pay the balance amount and to buy the property as he was admittedly the successful bidder in the e-auction. Noting this submission, learned counsel for the respondent submits that short date may be granted only to answer this contention and if the petitioner is willing to purchase this property (in terms of the auction bid), the respondent shall revert back on this point alone.



List for directions on 12.09.2017.

AUGUST 01, 2017
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INDERMEET KAUR, J