

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.11180/2000
(From the judgement and order dated 07/01/2000 in DBSA 998/98
of The HIGH COURT OF RAJASTHAN AT JAIPUR)

URBAN IMPROVEMENT TRUST KOTA

Petitioner (s)

VERSUS

OM PRAKASH SHARMA & ORS

Respondent (s)

(With prayer for interim relief & office report)
(With Appln(s). for accepting English translation)
(For Final Disposal)

Date : 27/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s)

Mr. Sushil Kumar Jain,Adv.

For Respondent (s)

Mr. Aruneshwar Gupta,Adv.

UPON hearing counsel the Court made the following
O R D E R

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.SP2

The application for accepting English translation is
ordered.

Leave is granted.

The appeal is disposed of in terms of the signed
order. No order as to costs.

.SP1

[Naresh Kumar]
Court Master

[Kanwal Singh]
Court Master

[Signed order is placed on the file.]

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Urban Improvement Trust, Kota

& Appellant

Versus

Om Prakash Sharma & Ors.

& Respondents

O R D E R

Leave is granted.

This appeal is directed against the order of the Division Bench of the High Court of Rajasthan, Jaipur Bench, Jaipur in Civil Appeal (Writ) No.998 of 1998 dated January 7, 2000.

The appellant is the owner of land measuring 120 x 110 , Petrol Pump, Transport Nagar, Kota (for short the land). Under the Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974 (for short the Rules), the land was put to auction for 99 years lease on December 6, 1987. The respondent was the highest bidder for the said land. Under the conditions of the auction and the Rules, the respondent deposited 25% of the amount on that date. It appears from condition No.3 that the balance of three-fourth of the cost of the plot has to be deposited within 30 days from the approval of the auction by the Chairman. The record shows that the rival bidders filed a suit and obtained order of stay of confirmation of auction which was in operation from December 16, 1987 till December 21, 1990 when the stay order was vacated. The respondent filed an application before the appellant on January 16, 1991 requiring clearance for deposit of the balance of three-fourth amount. While so, by the order dated June 13, 1995 the appellant declined to confirm the auction. The respondent challenged the validity of that order of the appellant before the High Court of Rajasthan, Jaipur Bench. On January 7, 2000, the High Court quashed the impugned order of the appellant and allowed the writ petition. It is the correctness of that order of the High Court that is assailed in this appeal.

Mr.Sushil Kumar Jain, learned counsel for the appellant, vehemently contends that the High Court ought to have seen that an order of stay was in operation and, therefore, the Chairman could not have taken decision in the matter; the respondent can claim no right in the land before the Chairman confirms the auction in his favour much less can he question the non-confirmation of the auction by the Chairman.

Mr.Aruneshwar Gupta, learned counsel for the respondents, argues that the auction was conducted in 1987 and it took eight years for the Chairman to take a decision with regard to confirmation or otherwise of the auction and that has prejudiced the rights of the respondents; rejection of the offer after such a long lapse of time is nothing but an arbitrary action and the High Court has rightly quashed the order of rejection.

From the above narration of the facts, it is evident that the appellant s bid was the highest offer for the land and he deposited one-fourth of the bid amount on December 6, 1987. He was to deposit the balance of three-fourth amount on confirmation of auction by the Chairman. There can be no dispute that it is only on confirmation of auction by the Chairman followed by payment of the balance amount the right of the appellant bidder will get crystallised. But here the appellant is not claiming any right as such in the land. He is complaining that rejection of the offer by Chairman after eight years is arbitrary and resulted in great monetary loss to him due to rise in prices of the land. The Chairman could have either confirmed or rejected the offer within a reasonable time. On the said premise there is no escape for the appellant from the consequences of the inaction. True it is that there was stay operating which prevented him from taking any decision between 1987 and 1990 when he was made aware of vacation of the stay by the Civil Court on December 21, 1990. Within one month of that order the respondent approached the appellant for depositing the balance amount.

The appellant, however, took about 5-1/2 years thereafter to reject the offer. The period of 5-1/2 years by no standard can be said to be reasonable time on the facts and in the circumstances of the case. Consequently, the respondents cannot be made to suffer on account of the inaction of the appellant due to rise in the prices of the land. This action of the appellant, in our view, has rightly been held arbitrary by the High Court. We, therefore, find no reason to interfere with the order of the High Court.

The question, however, is whether that would amount to confirmation by the appellant, we think it does not. In the circumstances, we consider it appropriate to direct the Chairman of the appellant to consider the question of confirmation within 30 days from the date of receipt of a copy of this order in the light of the observations made above and pass appropriate orders. The appeal is accordingly disposed of. There shall be no order as to costs.

& .& & & & & & & & & & ..J.
[Syed Shah Mohammed Quadri]

& .& & & & & & & & & & ..J.

[S.N.Phukan]

New Delhi,
April 27, 2001.