

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2013

(CC 10072/2013)

(From the judgement and order dated 04/12/2012 in CWP No.6596/2012 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PANKAJ AGGARWAL

Petitioner(s)

VERSUS

STATE OF HARYANA & ANR.

Respondent(s)

With I.A.1 (C/delay in filing SLP)

Date: 08/05/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. Gagan Gupta, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The delay in filing the special leave petition is condoned.

The points which arise for consideration in this petition are whether the petitioner, who had given the highest bid for Site No.127, Sector-21C, Faridabad, is entitled to allotment of plot as of right and whether the Competent Authority was justified in canceling the auction.

In the auction conducted by Haryana Urban Development Authority (HUDA) in March, 2012, the petitioner gave highest bid of Rs.45,00,000/- for Site No.127, Sector-21C, Faridabad. He deposited the earnest money of Rs. 4,50,000/- but the Presiding Officer withdrew the auction in respect of the site for which bid had been given by the petitioner. Thereafter, the amount deposited by the petitioner was also refunded to him.

The petitioner challenged decision of the concerned authority to withdraw the auction in CWP No.6596/2012. The same was dismissed by the Division Bench of the High Court on the ground that in terms of the advertisement the Presiding Officer was entitled to cancel the bid. The Division Bench noted that the highest bid for another plot, i.e., Site No.128, Sector-21C, which was auctioned simultaneously, was of Rs.65,25,000/- and held that this afforded sufficient justification to the Competent Authority to withdraw the auction.

We have heard learned counsel for the petitioner. In our opinion, the Competent Authority did not commit any illegality by withdrawing/canceling the auction because the bid given by the petitioner was far less than the bid given for a similar site. In K.N. Guruswamy v. State of Mysore AIR 1954 SC 592, this Court considered an almost identical question and held:

"It is admitted that the contract was auctioned on 27-4-1953; it is admitted that the appellant bid up to Rs 1,80,000 and it is admitted that that was the highest bid; it is also admitted that the contract was knocked down in his favour. But that was not final because under Rule II.8 the sale was expressly subject to the formal

confirmation of the Deputy Commissioner who is given a discretion to accept or reject a bid. The Deputy Commissioner did not give his sanction but equally he did not exercise his discretion. But that can be treated as an irregularity in this case because even if sanction had been given it was subject to revision by the Excise Commissioner "for special reasons". That fact distinguishes this case from Commissioner of Police, Bombay v. Gordhandas Bhanji.

Now the Excise Commissioner exercised his authority: a little irregularly it is true because the matter did not reach him through the proper channel; but that would not call for interference by way of a writ. The substance of the thing is there and as the High Court was not a Court of appeal it could not have been called upon to correct a mere technical error in the exercise of a jurisdiction which was otherwise valid. It must be remembered that the Excise Commissioner was not a Court of law whose seisin was dependent upon the filing of a regular appeal. The sale was cancelled and a reason was given; and the fact that Government would be able to get an extra Rs 5000 a month as revenue is certainly a good reason. The cancellation was therefore proper and as the appellant obtained no right to the licence by the mere fact that the contract had been knocked down in his favour (the acceptance being subject to sanction) the appellant's first relief asking for a mandamus to confirm his right to the licence for 1953-54 cannot be granted."

In view of the proposition laid down in the aforementioned impugned judgment and Clause 3 of the advertisement, which gave power to the Presiding Officer to withdraw the auction, it must be held that the writ petition filed by the petitioner was totally misconceived and was rightly dismissed by the High Court.

With the above observations, the special leave petition is dismissed.

(Satish K. Yadav)
Court Master

(Phoolan Wati Arora)
Court Master