

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5940 OF 2019
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 22887 OF 2011)

VIRENDRA YADAV

...APPELLANT(S)

VERSUS

STATE OF U.P. & ORS.

...RESPONDENT(S)

O R D E R

Leave granted.

2. This appeal arises out of judgment and order dated 17.02.2011 passed by the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No. 6164 of 2011 in and by which the High Court has cancelled the original auction and directed the respondents-authorities to hold fresh auction in respect of Sagwan trees in accordance with prescribed rules. Being aggrieved, the appellant has preferred this appeal.

3. In the year 2010, a bid was invited for auction of Sagwan trees. The appellant participated and the appellant's bid was the highest bid i.e. Rs.3,04,000/- and accordingly, he was declared successful. As per Rules, the appellant has deposited 1/4th of the bid amount. On 28.07.2010, the Divisional Magistrate also passed the order confirming the auction in favour of the appellant, pursuant to which the appellant has deposited the remaining 3/4th bid amount on 04.08.2010. Respondent No. 6 viz. Hari Ram Prasad who did not participate in the auction proceedings came forward with an application stating that he and another one person are jointly

prepared to offer the amount with Rs.4,50,000/- in respect of the auction of the aforesaid 55 Sagwan trees. The second respondent-Additional District Magistrate directed vide order dated 23.08.2010 that the third respondent-Sub Divisional Magistrate to hold an enquiry. In the said order, it was stated that if there is an increase in the revenue, it was directed to take into consideration the proceedings for re-auction. The second respondent wrote letter dated 29.12.2010 to the fifth respondent - Janki Nandan asking him to deposit Rs.4,50,000/- within three days from the date of receipt of the notice so that the consideration of approval of the trees can be taken in his favour. Being aggrieved, the appellant has filed the writ petition assailing the said communication dated 29.12.2010. The High Court vide impugned judgment disposed of the writ petition holding that since there was a higher offer by respondent nos. 5 & 6, the authorities rightly directed for fresh auction proceedings. The High Court also approved the decision taken by the respondents-authorities to hold a fresh auction. Challenging the impugned order, the appellant is before us.

4. we have heard learned counsel appearing on behalf of the appellant as well as learned counsel appearing on behalf of the respondents-authorities.

5. Learned counsel appearing on behalf of the appellant has submitted that the appellant being the highest bidder and the respondent nos. 5 & 6 who have not participated in the auction proceedings, ought not to have been directed to make offer of higher amount and Respondent Nos. 2 & 3 viz. Additional District Magistrate and Sub Divisional Magistrate erred in accepting the

offer made by the fifth respondent and ordering fresh auction and the High Court erred in directing to hold fresh auction.

6. Learned counsel appearing on behalf of the respondent-State has drawn our attention to Rule 115(S) of the U.P. Zamindari Abolition and Land Reforms Rules, 1952 and submitted that in terms of Rule (iv) any resident of the Gaon Sabha where the property is situate or any other person interested in the same may within 42 days from the auction, file objection against the auction before the Tahsildar of the Tahsil in which Gaon Sabha exists who shall thereupon stay confirmation of the sale.

7. Learned counsel submitted that since the leverage of 42 days is stipulated in the aforesaid rules, respondents nos. 2 & 3 were well in their rights to hold an enquiry based on the offer made by the sixth respondent and the decision to conduct fresh auction.

8. The auction of 55 Sagwan trees was in the year 2010, about nine years back. By the passage of time, the value of 55 Sagwan trees (which is stated to be kind of teak wood) must have substantially increased . Therefore, at this distant point of time, we are not inclined to go into the merits of the contention of the learned counsel appearing for the appellant and the learned counsel for the respondents and the questions raised by the respective counsels are left open.

9. Since the appellant has participated in the auction and based on the order of the Divisional Magistrate dated 28.07.2010 confirming auction in favour of the appellant, the appellant has deposited the entire amount. In the interest of justice the amount of Rs.,3,04,000/- be refunded to the appellant with reasonable

interest at the rate of 6% per annum.

10. The High Court has directed fresh auction to be held and reserve price fixed at Rs. 3,04,000/- which was the bid submitted by the appellant. Since considerable time has lapsed, direction of the High Court to hold fresh auction and also reserve price fixed are set aside.

11. The appeal is disposed of directing the respondent nos. 1 to 4 to refund the amount of Rs.3,04,000/- with interest at the rate of 6% p.a from the date of the deposit to the appellant. It is left to the decision of the respondent-State authority whether going for fresh auction or not and if to be auctioned what is the upset value to be fixed for such auction. The amount with interest shall be refunded to the appellant within a period of twelve weeks from today failing which the interest payable to the appellant shall be at the rate of 12% per annum.

.....J.
[R.BANUMATHI]

NEW DELHI
30TH JULY, 2019

.....J.
[A.S. BOPANNA]

ITEM NO.13

COURT NO.7

SECTION XI

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 (C) No(s). 22887/2011
(Arising out of impugned final judgment and order dated 17-02-2011
in CMWP No. 6146/2011 passed by the High Court Of Judicature At
Allahabad)

VIRENDRA YADAV

Petitioner(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(With appln. for exemption from filing O.T.)

Date : 30-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Chandra Shekhar Bharadwas, Adv.
Mr. Santosh Kumar Tripathi, AOR

For Respondent(s) Mr. Tanmaya Agarwal, AOR
For State Mr. Nipun Goel, Adv.
Mr. Wrick Chatterjee

R.Nos. 5&6 Mr. Bharat Ram, Adv.
Ms. Mamta, Adv.
Mr. Prashant Chaudhary, AOR

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, shall also stand disposed
of.

(MADHU BALA)
COURT MASTER (SH)
(Signed order is placed on the file)

(NISHA TRIPATHI)
BRANCH OFFICER