

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(s).16305/2006

(From the judgement and order dated 15/05/2006 in CWP No.4767/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

MUNICIPAL CORPORATION CHANDIGARH & ORS.

Petitioner(s)

VERSUS

M/S. CHANDIGARH CORPORATE GUIDES LTD.

Respondent(s)

(With prayer for interim relief and office report)

Date: 04/09/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Ms. Kamini Jaiswal,Adv.

For Respondent(s) Mr. P.S. Patwalia,Sr.Adv.
Mr. Aman Preet Singh Rahi,Adv.
Mr. Tushar Bakshi,Adv.
Mr. Ajay Singh,Adv.
Mr. Ashok K. Mahajan,Adv

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

Leave granted.

Heard learned counsel for the parties.

The civil appeal is allowed.

[Alka Dudeja]
Court Master

[Savita Sainani]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6055 OF 2009
(Arising out of S.L.P. (C) No.16305 of 2006)

Municipal Corporation, Chandigarh & Ors.

...Appellant(s)

Versus

M/s. Chandigarh Corporate Guides Ltd.

...Respondent(s)

Leave granted.

The highest bid of Rs.2,26,00,000/- given by respondent - M/s. Chandigarh Corporate Guides Ltd. in the open auction conducted by the Municipal Corporation, Chandigarh (appellant No.1 herein) in respect of SCO No.164-165 situated in Sector 9C, Chandigarh was accepted by the competent authority. In terms of the condition of auction, the respondent was required to deposit 25% of the premium within 30 days of the auction and the balance 75% in 3 equated yearly installments of Rs.71,99,192/- along with interest @ 18%. Later on, the annual equated installment was revised as Rs.69,06,322/-. The respondent paid 25% of the premium i.e. Rs.57,25,000/- on 29.4.1998. Thereafter, allotment letter was issued in favour of the respondent by Assistant Commissioner, Municipal Corporation, Chandigarh (appellant No.2 herein). As the respondent failed to pay the ...2/-

- 2 -

balance amount together with interest on due dates, appellant No.2 after issuing notice to the respondent and hearing the parties passed order dated 12.7.2001 whereby, he cancelled the lease of the site and forfeited 10% of the premium, interest and ground rent. On an appeal preferred by the respondent, Joint Secretary, Finance, Union Territory Chandigarh set aside the order of cancellation of lease and restored the site to the respondent subject to the condition that it shall pay the outstanding dues within 4 months. This was subject to the rider that if the respondent fails to stick to the time schedule, the order of the Assistant Commissioner shall become operational. Similar order was passed by Advisor to the Administrator, Union Territory Chandigarh who disposed of the revision of the respondent by giving it 3 months time for payment of the outstanding dues. On an application made by the respondent, the Advisor extended the time specified in the revisional order. Despite this, the respondent did not deposit the balance amount. Instead, it raised dispute regarding correctness of the statement of accounts furnished by the Municipal Corporation. Finally, the respondent filed a writ petition for setting aside the order of cancellation of lease passed by appellant No.2 herein as also the appellate and revisional orders passed by Joint Secretary, Finance and Advisor to the Administrator, Union Territory Chandigarh respectively. The High Court did not go into the legality or otherwise of the order by which the respondent's lease was cancelled. The High Court also did not consider whether the conditional orders of restoration of lease passed by the appellate and revisional authorities were legally correct and ...3/-

- 3 -

disposed of the writ petition by a short order. The High Court took cognizance of the statement made by counsel appearing for the writ petitioner that all outstanding dues have been paid and directed the appellant herein to communicate in writing the outstanding dues which are still payable by the writ petitioner and directed the latter to clear the outstanding dues within 3 weeks of such communication. The High Court concluded that if the amount is deposited, the order of resumption shall be treated as non est.

We have heard learned counsel for the parties. In our view, the procedure adopted by the High Court for disposing of the writ petition is wholly unknown to law. When the order for cancellation of lease was challenged, the High Court was duty bound to decide whether the order passed by

appellant No.2 i.e. Assistant Commissioner, Municipal Corporation, Chandigarh was legally correct. The High Court should also have examined and adjudicated upon the legality of the conditions imposed by the appellate and revisional authorities for restoration of the site to the respondent. Since, the impugned order has been passed without examining the vital issues raised by the parties, the same cannot be sustained.

Accordingly, the appeal is allowed, impugned order is set aside and the matter is remitted to the High Court for deciding the writ petition afresh in accordance with law after giving opportunity of hearing to the parties.

Needless to say that we should not be misunderstood to have expressed any opinion one way or the other in ...4/-

- 4 -

relation to the merits of the writ petition filed by the respondent.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
September 04, 2009.