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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 303/2011 & Crl.M.A. Nos. 17177/12, 1467, 2072 to 2074, 2653, 3091, 3135, 5282 & 5692 of 2013**

AMIT KR JHA & ORS

Through

..... Petitioners

Mr. R.N. Mittal, Senior Advocate
with Mr. V.M. Bhardwaj, Mr. Gaurav
Bhardwaj, Mr. Ankit Goel and Mr.
Bhag Singh, Advocates

versus

STATE OF DELHI

Through

..... Respondents

Mr. Sunil Sharma, Additional Public
Prosecutor for the State with
Inspector Nageem Kaushik
EOW/Crime Branch

Mr. Subodh K. Pathak and Mr. Rohit
Aggarwal, Advocates for applicants
in Crl. MA 5692/2013

Mr. Nitin Nanda and Ms. Kumud
Nijhawan, Advocates for the
complainant/investors

Mr. Rajat Wadhwa and Mr.
Amritansh Batheja, Advocates for
complainant Mr. Yogendra Gulati
Mr. V.V. Manoharan, Advocate for
applicant in Crl. MA 1467/2013
Mr. Kamlesh Shambharwal, Advocate
for applicant Roshan Mendiratta
Mr. Dinesh Malik, Advocate for
applicant in Crl. MA 714/2013
Mr. Gagan Chhabra, Advocate for the
complainant

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
23.05.2013

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Crl. M.A. No. 8256/2013 (filed by the applicant Roshan Mendiratta)

Upon notice of this application, learned senior counsel for the petitioners fairly concedes that due to a typographical mistake, Khasra No. 657 has been wrongly mentioned in the Sale Notice as Khasra No. 557.

In view of the aforesaid, without going into the pleas raised in this application, it is disposed of while excluding Khasra No. 657/503 (which as per the applicant is 0.2267 hectares) from the Sale Notice.

Bail Application No. 303/2011

Status report of 23rd May, 2013 submitted by Mr. J.K. Batra, Assistant Registrar, Company, Delhi High Court reveals that the Sale Notice of petitioner's land in question has been published in the newspapers in compliance with the directions issued by this Court vide order of 30th April, 2013. As per the status report, only one bid for the sale of the land in question has been received. Let it be opened.

Upon opening the solitary bid received, it transpires that the bidder *Valerian Technologies Pvt. Ltd.* has given a bid for the land in question for an amount of ₹ 90 crores whereas the reserve price fixed for the sale of subject land is ₹ 99.65 crores. The Sale Notice of 2nd May, 2013 published in the National Newspaper reveals that there were certain terms and conditions of sale which could be downloaded from the official website of this Court. The sale condition No. 6 reads as under:-

“That the sealed tenders will be opened before the Hon’ble Court (Court No. 29), Delhi High Court in the presence of such tenderers who may like to be present there at that time. The tenderers will be given chance to bid amongst themselves in order to improve upon their offers.”

In terms of the aforesaid condition No. 6 in the Sale Notice, Mr. J.K. Batra has in the open Court enquired aloud as to whether there is any other bidder in the Court in respect of the sale of the land in question.

None had come forward to give bid in respect of the land in question.

In view of the aforesaid, the bid is scrapped. At this stage learned senior counsel for petitioners draws attention of this Court to the status report of 15th April, 2013 filed by respondent-State to point out that ₹13 crores approximately is still outstanding from petitioners’ towards complainants-investors. On instructions, learned senior counsel for petitioners submits that as abundant caution and to prove their bonafides, petitioners are ready to deposit a sum of ₹25 crores so that the claim of any other investor apart from complainants-investors could be satisfied and that if, upon filing of final report by Investigating Officer, any further amount is required to be deposited, petitioners shall promptly deposit such specified amounts and fee, expenses etc. of disbursement of claims of complainants.

Learned senior counsel for petitioners further submits that initially a sum of ₹5 crores by way of a demand draft would be deposited with Registrar General of this Court on or before 31st May, 2013 and another demand draft for a sum of ₹10 crores on or before 31st July, 2013 and demand draft of balance amount of ₹10 crores would be deposited before 31st August, 2013 and an undertaking by way of affidavits of petitioners in aforesaid terms would be placed on record within three days.

At this stage, learned counsel for the applicants-investors submit that the mechanism of disbursement of the claims ought to be evolved so that the amount due be released to complainants-investors forthwith.

In the light of the stand taken as aforesaid and with a view to secure the interests of creditors, the mode by which the petitioners would be depositing a sum of ₹25 crores is principally accepted with the rider that if petitioners default in adhering to the aforesaid schedule, then petitioners shall not have the benefit of this order.

To protect the interest of the complainants-investors, it is directed that when initial amount of ₹5 crores is deposited with Registrar General of this Court by petitioners, a Nodal Officer so appointed would invite the claims from the complainants-investors and after scrutinizing them, shall disburse the amount due to the complainants-investors. If any of the complainants-investors is not satisfied with the amounts so received by him/her, then he/she shall be at liberty to avail of the remedies as available in law.

Shri Bharat Parashar, Joint Registrar of this Court is appointed as Nodal Officer and his initial fee of ₹75,000/- with ministerial expenses of ₹25,000/-, shall be paid by petitioners while making initial deposit of ₹5 crores. On receiving aforesaid deposit of ₹5 crores and thereafter ₹10 crores each, as per the time schedule indicated above, the said amounts be promptly converted into FDRs by the Registrar General of this Court. Needless to say that Nodal Officer shall ensure that the disbursement of the claims is made to the complainants-investors preferably within a period of 03 months from the commencement of the disbursement proceedings. Since the bid offered by Valerian Technologies Private Limited is not accepted,

therefore, the bid amount be returned by Mr. J.K. Batra, Assistant Registrar, to the bidder forthwith.

Without commenting upon merits of this case, interim order of 9th March, 2011 is made absolute with the rider that if petitioners fail to comply with this order and the undertaking given in the aforesaid terms, then petitioners shall not have benefit of this order. The embargo put upon sale of the subject land vide order dated 15th December, 2011 shall cease to operate from today.

In the event of arrest, petitioners be released on bail on their furnishing bail bonds in the sum of ₹1 lac each with one local surety of the like amount each to the satisfaction of the Arresting Officer/Investigating Officer. Needless to say that if petitioners fail to join and cooperate with the investigation, then respondent-State shall be at liberty to get this order revoked.

The pending applications are accordingly disposed of.

DASTI.

(SUNIL GAUR)
Judge

MAY 23, 2013

sd/vn