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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1028 OF 2014
IN
CRIMINAL MISCELLANEOUS APPLICATION NO.332 OF 2015

Tattva Chem Pharmaceuticals Pvt. Ltd.	..Appellant.
V/s.	
State of Maharashtra and Ors.	..Respondents.

Ms.Rupa Patel for the appellant.
Mr.J.P.Yagnik, APP for respondent-State.
Mr.V.K.Parulekar, Head Clerk of Competent Authority, SDO, Mumbai
Western Suburb for respondent No.2 present.
Mr.Yogesh Joshi i/b. YRJ Legal for respondent No.5.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 20TH NOVEMBER, 2015

P.C. :-

1. Heard learned counsel for the appellant, learned counsel for respondent No.5 and learned APP for the State.
2. The main challenge in the petition is to the order passed by the Special Judge, MPID Act and Additional Sessions Judge, City Civil and Sessions Court, Mumbai in Miscellaneous Application No.332/2015 in MPID Case No.36/2000. By the said order, the application of respondent No.5 was allowed and his offer towards purchase of subject property for Rs.85,00,0000/- was accepted.

3. The subject property i.e. Plot No.77, Tarapur Industrial Division, M.I.D.C. Boisar, Palghar admeasuring 1000 sq. mtrs. was valued by the Government Valuer in accordance with ready reckoner at Rs.37,55,000/-. Thereafter, it was put to auction. The petitioner was the highest bidder at Rs.52,00,000/-. Respondent No.5 thereafter filed the above stated application before the MPID Court with the offer of Rs.85,00,000/-. As stated above, by the impugned order, the MPID Court accepted the offer of respondent No.5 and the amount deposited by the appellant was directed to be refunded.

4. When this appeal was placed for admission on 23rd October, 2015, learned counsel for the appellant made a statement that the appellant had already deposited Rs.52,00,000/- i.e. the entire amount of bid within the stipulated time and he further made a statement that the appellant is ready and willing to deposit Rs.33,00,000/- in this Court to match the offer of appellant. The statement was accepted and in accordance with the statement, the appellant has deposited an amount of Rs.33,00,000/- on 5th November, 2015.

5. As stated above, the appellant has matched the offer made by respondent No.5. We, therefore, asked learned counsel for respondent No.5 if the respondent No.5 is ready and willing to

increase the offer. Learned counsel having taken instructions from respondent No.5 who is present in the Court, states that respondent No.5 is not willing to increase his offer.

6. Learned counsel for appellant having taken instructions from the appellant's representative who is present in the Court states that the appellant is ready and willing to increase the offer by one lakh i.e. they are ready and willing to offer an amount of Rs.86,00,000/- for the subject property. The statement is accepted.

7. Since the sale proceeds of the subject matter is to be utilised for payment to the investors and the offer of the appellant is higher than that of respondent No.5, the appeal will have to be allowed. The appeal is accordingly allowed. The impugned order dated 16th September, 2015 passed by the Special Judge and City Civil and Sessions Court, Mumbai is quashed and set aside and the Miscellaneous Application No.332/2015 is dismissed.

8. The appellant has already deposited an amount of Rs.52,00,000/- with the Competent Authority. Registry is directed to transfer the amount of Rs.33,00,000/- deposited by the appellant in this Court to respondent No.2 - the Competent Authority. The appellant shall also deposit an additional amount of Rs.1,00,000/- as stated hereinabove within a period of one week from today with respondent No.2 - the Competent Authority. If the appellant fails to

deposit the amount of Rs.1,00,000/- within the stipulated time, the appeal shall stand dismissed and the impugned order shall stand confirmed.

9. In the event of deposit of Rs.1,00,000/- by the appellant with respondent No.2 - the Competent Authority within the stipulated time, the Competent Authority is directed to confirm the sale of subject property in favour of appellant. In such case, the Competent Authority shall comply with clauses 8, 9 and 10 of the procedure for disposal of attached property and disbursement of amount to investors which is annexed at Exhibit-C, page 57 of this appeal.

10. The Competent Authority shall refund the amount of Rs.85,00,000/- along with interest accrued thereon to respondent No.5 within one week from the date of deposit of Rs.1,00,000/- by the appellant.

11. The appeal is disposed of in above terms.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)