



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

O.S.A.No.79 of 2015

M/s.M.S.T.C. Limited
Rep. by its Regional Manager,
Shri.S.Murali Krishnan

... Appellant

-vs-

The Official Assignee
High Court, Madras

... Respondents

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent, against the order dated 05.12.2014 in Appl. No.233 of 2014 in I.P.Nos.77 and 134 of 2002 and I.P.Nos.60 and 100 of 2003, on the file of original side of this Court.

For Appellant	:	Mr.P.Subba Reddy
For Respondent	:	The Official Assignee
	:	M/s.Narmadha Sampath for Insolvent.

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appellant before us provides an e-commerce platform as a tool for transacting business over the internet and claims to have sold successfully many properties including for the Official Liquidator. It is in furtherance of the business interest of the appellant that a communication dated 13.09.2010 was addressed by the appellant to the Official Assignee for providing such services. The contract resultant between the appellant and the Official Assignee has, however, not been placed on record before us.



2.The controversy in the present appeal arises from an auction sale of property known as Bhuvanewari Theatre and land, in pursuance to the orders passed by this High Court in Insolvency jurisdiction, with an upset price of Rs.20 crores. An advertisement issued in Clause 14 refers to an e-auction to be conducted by the appellant, for which details may be obtained from the website. The prior history of earlier auctions held also shows that they did not mature into any transaction and so was the fate of this auction. However, subsequently, through an auction vide Court process, an auction price of Rs.11 crores was reached, much below the upset price. The appellant claims service charges at 1% of this amount, which plea has been rejected by the impugned order of the learned Single Judge dated 05.12.2014, while granting a sum of Rs.2 lakhs to the appellant, being quantified so on account of expenses incurred by it.

3.The case of the appellant is that the ultimate purchaser was also brought by the appellant and the payment was rooted through them.

4.In our view, that could not be material, as the 1% fee was payable to the appellant if the e-auction had resulted in a successful bid. If the successful bidder through a Court process has paid the amount through the appellant, it will not entitle the appellant to a service charge and if the successful bidder has carried out such a transaction through the appellant, it is for that bidder to pay the appellant for the services rendered. Despite this position, the learned Single Judge has taken care to compensate the appellant for the expenses incurred, after calling for the records of the expenses incurred by the appellant.

5.We, thus, find no reason to interfere with the well-reasoned order of the learned Single Judge.

6.Original Side Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra



To

The Sub-Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+1cc to Mr.P.Subba Reddy, Advocate, S.R.No.19970
+1cc to Ms.Narmadha Sampath, Advocate, S.R.No.19971

O.S.A.No.79 of 2015

TEJ(CO)
CA(20/04/2015)