

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.12013 of 2004 (O&M)

Date of Decision: 18.03.2015

Raj Singh

.....Petitioner

Versus

Tehsildar (Sales) Rohtak and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: None for the petitioner.

Mr. Sandeep S. Mann, Sr. D.A.G., Haryana
for respondent Nos.1 to 3 and 5.

None for respondent No.4/U.O.I.

JASWANT SINGH, J.

CM No.3460 of 2015

The affidavit dated 09.03.2015 of Sh. Vijayendra Kumar, Secretary to Government of Haryana, Revenue and Disaster Management Department Chandigarh in view of a query dated 28.01.2015 put forth by this Court, is sought to be placed on record. Copy of the same has been furnished to the learned Counsel for the petitioner.

CM is allowed. Affidavit is taken on record.

C.W.P. No.12013 of 2004

The land in dispute measuring 32 Kanals (4 Acres) comprised in Khasra No.79//13, 14, 8 and 9 (recorded as “*Gair Mumkin Ret*”) situated in Village Jhundpur, Tehsil and District Sonapat was put to restricted auction

amongst Harijans on 29.03.1996 by Tehsildar (Sales), Sonapat/respondent No.1 being a rural evacuee land covered under the Package Deal Properties. The petitioner was the highest bidder for ₹ 45,000/- and an amount of ₹ 5625/- being the 1/8th of the bid money was paid by him as earnest money. The auction bid being provisional was subject to approval of the competent Authority. The Assistant Settlement Officer (Sales)/respondent No.2, vide order dated 02.01.1998 (**Annexure P-4**), held that the bid is not reasonable hence ordered re-auction after wide publicity on consideration of a complaint received from one Subhash s/o Bihari that the auction was secretly held. The petitioner filed a revision against **P-4** and the Revisional Authority, vide order dated 06.05.1999 set aside **P-4** and remanded the case back to respondent No.2 for deciding the matter afresh by hearing both the parties.

Respondent No.2 thereafter vide impugned order dated 13.09.1999 (**Annexure P-6**) set aside the auction in favour of the petitioner while directing the refund of the bid amount by holding on examination of the record that the land in dispute was recorded as “*Hasab Rasad*” and was also no longer available having become part of State of Uttar Pradesh after passing of and under the Dixit Award. Aggrieved against order (**P-6**), the petitioner filed a revision before the Settlement Commissioner/respondent No.3, who vide impugned order dated 17.04.2003 (**Annexure P-8**), dismissed the revision petition by holding that the land in dispute as per report dated 10.03.2003 falls within the territory of Uttar Pradesh as per Dixit Award and thus upheld the order (**P-6**). Hence, the present writ petition impugning **P-6** and **P-8** with a further direction for confirmation of his bid qua the land in dispute with delivery of possession or in the alternative, release of similar land.

The writ petition was admitted vide order dated 06.07.2006.

Learned Counsel for the respondents/State heard at length and nobody has put in appearance on behalf of the petitioner.

It is not in dispute that in the restricted auction conducted on 29.03.2006, the petitioner was the highest bidder but the acceptance of his bid was provisional subject to approval of the competent Authorities. It cannot be disputed in law that the competent Authority concerned can for a valid reason reject the highest bid and no enforceable right comes to vest with the highest bidder merely on its provisional acceptance. The reason for rejection, of course is subject to judicial review. In the present case, the fact that the title of the land in dispute no longer vests with the State of Haryana after the passing of the Dixit Award regarding settlement of dispute of "*Burdgi-Bramdgi*" land covered under the Yamuna River between the State of Uttar Pradesh and State of Haryana, is a reasonable and acceptable ground for rejection of the bid of the petitioner inhering no right to the petitioner to challenge the same since valid title cannot be transferred. In a similar case, this Court in **CWP No.9732 of 2003** titled as "**Chandgi Ram Vs. State of Haryana**", decided on 12.03.2004 in the relevant para held as under:-

“ Admittedly, the petitioner's father was the highest bidder in a restricted auction. The auction was confirmed and possession delivered. However, before any sale deed could be executed, the River Yamuna changed its course and the land fell into the State of Uttar Pradesh. The Dixit Commission appointed to delimit the boundaries between the State of Uttar Pradesh and Haryana confirmed that the aforementioned land had fallen into the State of Uttar Pradesh. The land was no longer in the possession of the petitioner. It is thus apparent that the land having failed into the State of Uttar Pradesh, title in respect thereof came to vest in the afore-mentioned State. The

State of Haryana stood divested of any right, title or interest in the land and therefore could no longer pass a valid title to the petitioner. The orders annexure P-5 and P-6, insofar as they direct the petitioner to seek the execution of a sale deed, are therefore incomprehensible. The State of Haryana having been divested of title, could no longer pass title to the petitioner and therefore no authority in the State of Haryana could execute a sale deed in favour of the petitioner. Respondents No.1 and 2 apparently lost sight of the above facts. The respondents should have, in all fairness, cancelled the auction and ordered refund. The failure to do so amounts to failure to exercise jurisdiction thus rendering the impugned orders null and void. ”

Therefore, in view of the above, no ground for interference is made out and hence, the writ petition is dismissed. It is, however, clarified that the earnest bid money lying deposited with the respondent-Department shall be refunded along with interest @ 6%.

March 18, 2015*Gagan***(JASWANT SINGH)
JUDGE**