

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 25231 of 2013

Date of Decision: 23.02.2015

Satinder Singh and another

....Petitioners

Versus

State of Punjab through Secretary to Local Government,
Punjab at Chandigarh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Mr. Anil Chawla, Advocate for the petitioners.

Mr. Manoj Bajaj, Additional Advocate General, Punjab, for
respondent No.1.

Mr. G.S. Attariwala, Advocate for respondent No.2.

HEMANT GUPTA, J.(ORAL)

The challenge in the present writ petition is to an order dated 02.07.2013 (Annexure P-8), whereby the claim of the petitioner for purchase of Plot No. 330 measuring 500 sq. yards in an open auction, was declined.

A public notice was issued by the Improvement Trust on 30.12.2010 for conducting an open auction of the various residential plots. The auction was held on 19.01.2011 on "as is where basis" including that of plot No. 330 measuring 500 sq. yards at a reserve price of Rs.9000/- per sq. yard. The petitioners were the highest bidders of the said plot @ Rs.10,500/- per sq. yards. The Improvement Trust passed a resolution on 21.01.2011(Annexure P-5), approving the bid of the petitioners and sent it for the approval to the competent authority. However, the said resolution was not approved as per the letter dated 09.05.2011(Annexure P-6). The petitioners challenged the said order of non-approval before this Court by way of *Civil Writ Petition No. 26045 of 2012*. The said writ petition was allowed by this Court on 21.12.2012(Annexure P-7). It is thereafter

impugned order has been passed. It has been noticed that as per the report of the Executive Officer, the market price is Rs.15,000/- per sq. yard, whereas the petitioners gave the highest bid for the said plot @ Rs.10,500/- per sq. yards, therefore, the price officered is less than the market price.

The argument raised on behalf of the petitioners is that the plot-in-question was under occupation of Shri Jagdish Raj S/o of Sh. Kali Ram and there is garbage dump near this plot and, thus, the market value of the plot-in-question is not the same as noticed by the Secretary to Government. Learned counsel for the petitioners has also vehemently argued that the report of the Executive Officer is not on record, as per the information given under Right To Information Act, 2005. Therefore, the impugned order has been passed without any document on record. It is contended that the reserve price of the plot-in-question is Rs.9,000/- per sq. yard which is as per the Collector rate, whereas the petitioners gave the highest bid of the said plot @ Rs.10,500/- per sq. yards. Therefore, there is no rational basis to doubt the bids given by the petitioners for the purchase of the said plot.

The order passed by the Secretary to Government of Punjab, Department of Local Government, shows that reference has been made to the report of Executive Officer, Improvement Trust and the Deputy Director Regional, Department of Local Government, Amritsar, to hold that the plot in question has been auctioned at a price less than the market value. Even the present Executive Officer, Improvement Trust, Amritsar, has also reported that the price of the plot at the time of the auction was Rs.15,000/- per sq. yard. The relevant extract of the impugned order is reproduced as under:-

"The petitioner Sh. Satinder Singh and the improvement Trust, Amritsar were heard. The petitioner submitted that the auction has been done after due publicity in the newspapers. The auction was carried out in full public view. Auction started @ Rs.9200/- and his being the highest

of Rs. 10,500/- was accepted. As far as the auction rate being less than the market rate is concerned, he submitted that it was due to the fact that it is under occupation of Sh. Jagdish Ram s/o. Shr. Kali Ram and also because of the fact that 22 plots of very small size measuring 37 sq. yards each have been allotted to the poor people. Besides, there is garbage dump near this plot.

The Executive Officer, Improvement Trust, Amritsar reported that the market rate of the plot in question at the time of auction was Rs.15,000/- per sq. yard while the plot was auctioned @ Rs.10,500/- per sq. yard. Executive Officer, improvement Trust, Amritsar, however, submitted that the adjacent plots i.e. Plot No. 331 and 332 have been under the illegal possession of dalit community and the efforts of the Improvement Trust to get the possession have not been successful. He also submitted that one Sh. Jagdish Raj s/o Sh. Kali Ram is under occupation of the plot in question. He further submitted that 22 persons were having the possession of these plots including Sh. Jagdish Raj s/o Sh. Kali Ram who was in possession of plot no. 330 and these persons have been given 37 sq. yard plots and possession has been taken except from plot No. 330. He also submitted that there are small size plots of 37 sq. yard each which have been allotted to various persons and which are very near to plot in question."

The Executive Officer on 21.01.2011, has recommended that the resolution passed by the Improvement Trust, approving the auction in favour of the petitioner, be rejected. It is, thereafter, the impugned order was passed. It has been also pointed out that Executive Officer, Improvement Trust, during the course of hearing stated that the market price of the plot in question was @ Rs.15,000/- per sq. yard, while the plot-in-question was auctioned @ Rs.10,500/- per sq. yard. Thus, it is a case of information shared earlier on 21.01.2011 and later during the course of hearing. Thus, we find that only because the petitioners have given bid of Rs.10,500/- per sq. yard, which is more than the collector rate, is not sufficient to infer that the decision of the State Government cannot be sustained.

The offer of the petitioner to purchase the plot by way of auction is required to be accepted to bring a concluded contract. It is always open for the owner of the plot not to confirm the auction. A full Bench judgment of this Court reported as AIR 2007 Punjab and Haryana 167 titled Subhash Chand Vs. State of Haryana, has examined the issue and held that no right accrues to highest bidder only because of the reason that he is the highest bidder, but the State and/or its instrumentalities must record the reason as to why the bid was not accepted. The State Government while declining the approval has considered that the market value was less than the bid offered by the petitioner.

Therefore, we find that such decision of the State Government cannot be said to be illegal or arbitrary warranting interference in extraordinary writ jurisdiction of this Court.

Accordingly, the present writ petition is dismissed.

It is needless to say that having set aside the bid of the petitioners; they are entitled to participate in the auction for same plot in accordance with law.

(HEMANT GUPTA)
JUDGE

(HARI PAL VERMA)
JUDGE

February 23, 2015
Anjal