

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

Civil Writ Petition No. 26039 of 2014(O&M)

Date of Decision: May 19 , 2015.

Surbhi Handicraft

..... PETITIONER (s)

Versus

Union of India and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Harsimran Singh Sethi, Advocate
for the petitioner.

Mr. Karminster Singh, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

HEMANT GUPTA, J.

Challenge in the present writ petition is to the communication dated 15.10.2014 whereby the petitioner was not allowed to lift the wooden scrap and order dated 08.01.2015 whereby the contract for sale of wooden scrap was cancelled.

The respondents published an advertisement on 19.08.2014 for the auction of wooden scrap to be conducted on 24.09.2014. The reserve price was

fixed at ₹4,200/- per metric ton. The petitioner was one of the participants in the bid. Though the petitioner states that approximately twenty (20) persons participated, the stand of the respondents is that thirty (30) bidders participated. The highest bid at the rate of ₹9,500/- per metric ton was given by the petitioner and a total amount for 300 metric ton of wooden scrap came to be ₹28,50,000/-. The petitioner deposited 10% of the total bid amount at the spot and he was asked to deposit the balance amount of ₹24,40,000/- by communication of acceptance of bid on 09.10.2014. The petitioner deposited all the amount including sale tax etc. on 10.10.2014 and sought delivery of the wooden scrap but the same was not released. On 15.10.2014, it was communicated to the petitioner that the delivery of wooden scrap is deferred till further advice and subsequently on 08.01.2015 the tender of the petitioner was cancelled.

In response to notice, respondents filed a written statement pointing out that in an earlier auction of wooden scrap conducted on 05.09.2014 the bid was at ₹13,400/- per metric ton, therefore, the price offered by the petitioner is inadequate as against the price offered for the wooden scrap sold in the close vicinity. It was pointed out that a complaint was received through vigilance department which led the competent authority to take a decision to cancel the acceptance of the sale of wooden scrap in favour of the petitioner.

We have heard learned counsel for the parties and find that action of the respondents in cancelling the concluded contract suffers from illegality, arbitrariness and unreasonableness. The sale of other wooden scrap on 05.09.2014 of the same Ferozepur Division at the rate of ₹13,400/- per metric ton is not a valid ground to cancel the acceptance of bid of the petitioner. The

competent authority was aware of the price offered in respect of another wooden scrap which was put to auction on 05.09.2014 and the price offered by the petitioner at the rate of ₹9,500/- per metric ton was accepted by the competent authority. The competent authority should have taken into consideration all the relevant facts before deciding the acceptance of bid of the petitioner. But once the bid is accepted, the concluded contract between the parties cannot be cancelled only for the reason that the price offered is inadequate. The value of the wooden scrap awarded in the auction conducted from amongst 30 bidders must have yielded the best valued price. There is no allegation of any misconduct in the process of auction. Therefore, setting aside of auction after its confirmation is not proper.

Reference is made to **Valji Khimji @ Company v. Official Liquidator of Hindustan Nitro Product (Gujarat) Ltd. and others, 2008(9) SCC 299** where it has been held that inadequate sale consideration is not a sufficient ground to set aside the auction after its confirmation. The court held:-

“31. If it is held that every confirmed sale can be set aside the result would be that no auction sale will ever be complete because always somebody can come after the auction or its confirmation offering a higher amount.

32. It could have been a different matter if the auction had been held without adequate publicity in well-known newspapers having wide circulation, but where the auction sale was done after wide publicity, then setting aside the sale after its confirmation will create huge problems. When an auction sale is advertised in well-known newspapers having wide circulation, all eligible persons can come and bid for the same, and they will be themselves be to blame if they do not come forward to bid at the time of the auction. They

cannot ordinarily later on be allowed after the bidding (or confirmation) is over to offer a higher price.”

Consequently, we allow the present writ petition and set aside the orders dated 15.10.2014 and 08.01.2015.

**(HEMANT GUPTA)
JUDGE**

**(LISA GILL)
JUDGE**

May 19 , 2015.
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