

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 4656 OF 2015

SHAIKH HAMID SHAIKH RAHIM
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. P.V. Mandlik, Senior Advocate
AGP for Respondent No.1: Mrs. S.S. Raut.
Advocate for respondent No.2 : Mr. P.R. Katneshwarkar.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 17th JUNE , 2016.

PER COURT:

1] Mr. Mandlik, learned counsel submits that the respondent No.2 issued a public notice inviting offers for sale of land Gat No. 568 admeasuring 10 Hectare 66R situated at Takli-Kumbhakarn, District Parbhani. Pursuant to the said public notice, petitioner submitted his tenderer alongwith a demand draft of Rs. 20 Lakhs. The tenders were opened. Petitioner's offer was the highest i.e. Rs. 2 Crores. The said tenders were opened on 12.3.2013. Thereafter no further steps were taken by the respondent No.2. The petitioner communicated with the respondent but no reply was given by the respondent. Petitioner made application under the Right to Information Act. Still, no information was given. Learned Senior Counsel submits that the petitioner also gathered information from the Sub Registrar office and was communicated that as per the ready reckoner, the value of the land is only Rs. 69,71,640/- and the petitioner had offered an amount of Rs. 1.30 Crores more than the Government valuation as per the ready reckoner.

2] Learned Senior Counsel submits that the petitioner got information under the Right to Information Act that even the respondent No.2 had recommended the offer of the petitioner to the Government, but the Government did not take any decision. Petitioner was and is ready to abide by the offer given by him of Rs. 2 Crores. Inter-se communication made by respondent No.2 and the Government authorities would make it abundantly clear that the respondent had recommended to accept the offer of the present petitioner.

3] Learned Senior counsel submits that the respondents be directed to execute the necessary documents in favour of the petitioner. Even the amount of Rs. 20 Lakhs is lying with the respondent No.2 since the date of submission of the tender.

4] Mr. Katneshwarkar, learned counsel for the respondent submit that offer of the petitioner was not accepted. Respondent No.2 received intimation from the Government to cancel the tender process.

5] We have considered the submissions canvassed by the learned counsel for the respective parties. Pursuant to the public notice, the petitioner had submitted his offer. Petitioner had agreed to purchase the land Gat No. 568 admeasuring 10 Hectare 66 R for Rs. 2 Crores. When the tenders/offers were assessed, it was noticed that the petitioner was the highest bidder.

6] The petitioner himself has annexed letter at Exhibit K which states that the valuation as per the ready reckoner is Rs. 69,71,640/- and, as per the Government approved valuer, the valuation of the said land is Rs. 7 Crores 89 Lakhs. It would be clear that the price being received by the respondents for the said land was only 25% of the market value, as valued by the Government approved valuer. The petitioner was never communicated that his offer was accepted. The sanction of the Government was required for finalizing the offer. The Government at no material point had given its sanction. No concluded contract had come into existence. The submission of tender by the petitioner was only an offer pursuant to invitation to offer by the respondent. Unless and until the offer is accepted by the respondent, promise has not come into existence. Inter-alia the contract has not come into existence. In the light of that, no right is created in favour of the petitioner. In the affidavit, it has also been stated by the respondent No.1 that the amount of Rs. 20 Lakhs was tried to be repaid by cheque bearing No. 088506 dt. 8/4/2015 by Regd. Post A.D. But the same was not accepted by the respondent.

7] In the light of above, the case of the petitioner can not be considered. As such, the Writ petition is accordingly dismissed. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-