

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5826/2016

Mohd. Mohtashin Neaymeathullah Phyrose

...Versus...

The Collector, Bhandara and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.S. Parsodkar, Advocate for petitioner
Shri A.M. Joshi, AGP for respondent nos.1 and 2
Ms Neeta Gojwani, Advocate for respondent no.3

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 09.12.2016

The only prayer made by the petitioner in the instant petition is for a direction against the respondents to refund the amount of Rs.6,05,000/- that was deposited by the petitioner as earnest amount while participating in the tender for auction of Nirwan Ghat.

The learned Counsel for the petitioner states that though the petitioner had paid a sum of Rs.6,05,000/- to the respondent no.1 and though the process initiated in pursuance of the tender for auction of Nirwan Ghat could not materialize in view of an order in Writ Petition No.394/2002, the Collector has not refunded the amount of Rs.6,05,000/- to the petitioner till date, despite the representations made by the petitioner.

Ms Gojwani, the learned Counsel for the respondent no.3 – State Bank of India states that the amount of Rs.5,00,000/- has been encashed by the respondent no.1 – Collector. It is stated that an appropriate order may be passed against the Collector as the Bank would not be liable to pay the amount to the petitioner.

It appears that the respondent – Collector has wrongly retained the amount, that was deposited by the petitioner, as 20% of the upset price while participating in the tender process for auction of Nirwan Ghat. Since the process was discontinued due to an order in Writ Petition No.394/2002 and since the Nirwan Ghat could not be allotted to any tenderer, it would be necessary for the respondent no.1 to refund the amount to the petitioner at the earliest.

Hence, we dispose of the writ petition with a direction against the respondent no.1 to refund the amount of Rs.6,05,000/- to the petitioner within one month.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar