THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

<u>Writ Petition No.5064 of 2009</u>

<u>ORDER:</u> (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The action of respondents 1 to 3, in proposing to re-auction the immovable properties belonging to the 4th respondent, is questioned in this writ petition on the ground that the petitioner was the highest bidder in the auction; and the respondents were not entitled to re-auction the property without either cancelling or setting aside the earlier auction.

From the minutes of auction dated 09.02.2009, it does appear that the petitioner offered Rs.70.25 lakhs which was the highest amount received in the auction. The said proceedings record that the conditions laid down in the auction notification will be completed after disposal of W.P.No.28352 of 2008. While matters stood thus, the Commercial Tax Officer, by endorsement dated 09.02.2009, informed the petitioner that they were not declared as the successful bidder in the public auction conducted on 09.02.2009; and, hence, the Demand Draft filed by them was being returned. Subsequently, by proceedings dated 03.03.2009, the Deputy Commercial Tax Officer informed the petitioner that the public auction on 09.02.2009 had been adjourned; the earnest money deposit of Rs.1.50 lakhs, in the form of Banker's Cheque, was being returned; the pubic auction was proposed to be conducted on 16.03.2009; and the petitioner could participate, if they so desired.

The only contention urged before us by Sri V.Bhaskar Reddy, learned counsel for the petitioner, is that the respondents were not entitled to proceed with the fresh auction till the earlier auction was cancelled. He would submit that, in the counter affidavit, while the respondents claim to have cancelled the auction, no reference is made therein to any proceedings whereby the auction notice was cancelled.

In the counter affidavit it is specifically stated that the auction on 09.02.2009 had been cancelled for the reason that the amount offered by the highest bidder was not to the satisfaction of the Department, as the arrears that were to be realised from the 4th respondent was very huge i.e Rs.3,42,91,139/-; accordingly, the auction was cancelled; and it was proposed to conduct a fresh auction on 16.03.2009.

From the counter affidavit, it does appear that no fresh auction was held thereafter. The fact, however, remains that no right is conferred on the petitioner as the highest bidder to claim that the property, put to auction, should be sold to them. The auction conditions itself stipulate that the auction can be cancelled or postponed. The specific case of the 2nd respondent, in the counter affidavit, is that the amount realised in the auction was not satisfactory, as the tax arrears due from the 4th respondent were very huge. No right is conferred on the highest bidder in the auction to claim that the property be registered in their favour, in the absence of sale being confirmed, and a sale deed having been executed in this regard.

While the submission of Sri V.Bhaskar Reddy, learned counsel for the petitioner, that the respondents can only proceed with the fresh auction after cancelling the earlier auction has considerable force, we see no justification in prohibiting the respondents from re-auctioning the said property for realisation of the tax arrears of the 4th respondent. Suffice it if the respondents are permitted to proceed with the auction, after passing a specific order of cancellation, in case no order of cancellation has been passed earlier.

Subject to the aforesaid observations, the writ petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

22nd September 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.5064 of 2009

Date: 22.09.2016

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