

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 33 OF 2017

WITH

CIVIL APPLICATION NO. 44 OF 2017

AND

APPEAL FROM ORDER ST NO. 2773 OF 2017

WITH

CIVIL APPLICATION ST NO. 2776 OF 2017

AND

CIVIL APPLICATION ST NO. 2778 OF 2017

The Bishop Education Society, through Secretary ...Appellant
& CEO Frank Greese

Versus

Pune Municipal Corporation, through the ...Respondent
Commissioner

Mr GS Godbole, i/b Parag M Tilak, for the Appellant.

Mr AP Kulkarni, for Respondent No. 1.

CORAM: G.S. PATEL, J

DATED: 26th July 2017

PC:-

1. The delay, if any, caused in filing the appeals are condoned.

2. Both the appeals can be disposed of by the following order:

3. The Appellants were the original Plaintiffs. They were successful bidders for a property at Final Plot No. 80, Survey No. 208, Yervada, Pune admeasuring 1 Hector 22.7 Ares. This was auctioned by the Respondent-Pune Municipal Corporation who took possession of the plot on 7th October 1987.

4. The present dispute relates to the amount required to be paid by the Plaintiff-society. It contends that it is not required to make payment as per the ready reckoner rates but only in accordance with the amounts specified in the Disposal of Land Rules of the Respondent, Pune Municipal Corporation. The amount under those Rules, which according to the Plaintiff, would be considerably less than either the amount of ready reckoner rates or the amount of the bid.

5. The society has deposited an amount of Rs. 1,38,49,220/- computed in accordance with the Respondent Corporation's Disposal of Land Rules. This is less than the amount of 2,26,12,136/- bid by the Appellant for the plot in the first place.

6. Whatever be the outcome of the appeals, the Appellant must deposit at least the amount that it had committed to in its bid. There can be no equity or discretionary order in favour of the Appellant unless this amount is deposited.

7. Mr Godbole in fairness, and on having taken instructions, states that the remaining amount, i.e, the difference between Rs. 2,26,12,136/- and Rs. 1,38,49,220/- will be deposited by the Appellant with the trial court within four weeks from today.

8. If the deposit is not made within the time stipulated, the appeals and the suit will stand dismissed, and the appellants will then be entitled to withdraw the amount deposited with interest, if any. This will be without prejudice to the Municipal Corporation's rights and remedies in regard to any amount recoverable from the appellants.

9. Upon that deposit being made, the entire amount will be invested in a fixed deposit with any nationalized bank.

10. Subject to the deposit being made as indicated above, the Respondent-Corporation will not alienate, part with possession or create third party rights in the property in question.

11. This order will continue pending the suit without prejudice to the rival rights and contentions. The order under appeal is modified to this extent.

12. The suit will be decided on its own merits uninfluenced by the observations in the interim order or in this order.

13. Having regard to the fact that the property is in a prime location, the interest of the Corporation must be balanced against

the interest of the Plaintiff educational society the suit which is of the year 2015 is expedited. A written statement has been filed. Parties will appear before the trial court on 28th August 2017 and request the court for framing issues and thereafter for directions for the trial.

14. The trial court is requested to dispose of the suit as expeditiously as possible, and preferably by the end of April 2018.

15. Both the appeals from order and accompanying civil applications are disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)