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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1360 OF 2016

Jaydip R. Dalsaniya ...Petitioner.

vs

Union of India ...Respondent

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Mr Girish R. Agrawal for the Petitioner.
Mr Y.R.Mishra & Dushyant Kumar for the Respondent.

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CORAM : A.S.OKA AND
ANUJA PRABHUDESSAI, JJ.
10 **JANUARY, 2017**

P.C. :

Heard learned Counsel appearing for the Petitioner. A notice of public auction of an agricultural land was published by the Competent Authority and Administrator, SAFEMA/ NDPSA Mumbai. The notice was of simultaneous public and 'e' auction. In this Petition, we are concerned with the land bearing S.No. 295/3 of village Kadaya, Nani Daman which is one of the two properties subject matter of the said notice. According to the case of the Petitioner, he participated in the tender process and on 9 December, 2015 he was declared as a successful bidder. On 15, December, 2015 the Petitioner deposited the entire balance bid amount. On 21 January, 2016 the Petitioner received impugned communication dated 14 January, 2016 from the Joint Commissioner, SAFEMA/NDPSA, Mumbai. The communication recorded that in terms of paragraph 18 of the Terms and Conditions of

auction sale, the bid offered by the Petitioner has been rejected. It is alleged in the said letter that on 5 January, 2016 when the Petitioner attended the office of the Joint Commissioner, the Superintendent (Administration) informed him orally about the said rejection and asking the Petitioner to take back the amount deposited by him.

2 Learned counsel appearing for the Petitioner tendered across the bar the information obtained by him under the Right to Information Act, 2005 which shows that the Petitioner offered highest bid in respect of the said land. He submitted under the fresh auction notice of E-auction scheduled to be held on 24 January, 2017, the reserve price of the said land is kept the same as the reserved price in the tender process subject matter of this Petition. He submitted that the action of cancellation of bid is completely illegal and malafide which could not have been done after the Petitioner deposited the entire amount offered by way of bid. He submitted that now no purpose will be served by adopting a fresh auction process as the reserve price fixed is the same. Learned counsel appearing for the Competent Authority, SAFEMA/NDPSA states that the cheque given by the Petitioner representing balance amount was not encashed by the authorities, and therefore, said authorities are ready to return the cheque.

3 We have given careful consideration to the submissions. Condition No.18 of the Terms and Conditions on which the said property was to be sold reads thus;

> "(18) The Competent Authority, SAFEMA, Mumbai reserves the right to cancel or postpone the Tender/ Public Auction/ e-Auction or to withdraw any property from the Tender/ Public Auction / e-Auction at any time without assigning any reason. He also reserves the right to reject any bid, including the higher bid, without assigning any reason. In such an event, the money already paid will be refunded to the intending purchaser without any interest, unless the same is forfeited as above."

According to us, Condition No.18 is crystal clear. Even the bid of the highest bidder, who has deposited money, can be always cancelled by the Competent Authority any time without assigning any reason. It provides that in such case, money already deposited will be refunded to the bidder without any interest. Thus, at any stage, the Competent Authority could have cancelled the bid of highest bidder without assigning any reasons. The Petitioner was aware of the terms and conditions including Condition No.18. Without challenging the same, he participated in the tender process. Apart from clause 18, the auction sale was not completed in favour of the Petitioner.

4 Communication dated 14 January, 2016 which is impugned in this Petition shows that clause 18 of the Terms and Conditions was specifically invoked for cancelling the bid.

5 The fact that in the subsequent auction, the same reserve

price is fixed will not help the Petitioner, as we find nothing wrong with the action of the Competent Authority of issuing the impugned communication dated 14 January, 2016 of the cancellation of bid. There is no reason to interfere in writ jurisdiction of this Court under Article 226 of the Constitution of India. The Writ Petition is dismissed. No order as to costs.

6 If the Petitioner satisfies the eligibility criteria and complies with all the terms and conditions, it will be open for the Petitioner to participate in the tender process which is scheduled on 24 January, 2017.

(ANUJA PRABHUDESSAI J.) (A. S. OKA, J.)