

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1614 OF 2016
IN
ARBITRATION PETITION NO. 63 OF 2013**

L&T Finance Ltd	...Petitioner
<i>Versus</i>	
Spotlight Tradecom Pvt Ltd & Ors	...Respondents

Mr Karl Tamboly, *with SI Joshi & Nikita Pawar, i/b SI Joshi & Co.,
for the Petitioner.*

Mr Shyam Kapadia, *i/b Meena Sangoi, the Auction Purchaser.*

Dr Abhinav Chandrachud, *with Gobinda C Mohanty, i/b Mohanty
& Associates, for Respondent No. 3.*

Ms D Dey, *for Calcutta Official Liquidator.*

Mrs R Gulekar, *Section Officer from the Office of the Court Receiver,
is present.*

CORAM: G.S. PATEL, J
DATED: 24th April 2017

PC:-

1. There is an Affidavit of the Assistant Legal Manager of L&T Finance reporting compliance of my order dated 24th March 2017. It notes that the Court Receiver fixed a meeting to finalize the draft public notice and the terms and conditions of the sale. The draft was settled. Notice of the meeting was also given. Copies of the final public notice were served on Respondents Nos. 1 to 3. The public

notice was ultimately issued in the newspapers on 3rd April 2017. Copies of these notices are annexed. It is common ground that no bids whatsoever have been received.

2. Dr Chandrachud for the 3rd Respondent-guarantor states that there may yet be a bidder who might be willing to offer Rs. 80 lakhs, the reserve price. This is too little too late. That person, if indeed there is one such, ought to have responded to the public notice in the time provided. He cannot come after the time has passed and on seeing that there are no bids received then say that he might be willing to put in the bid and that too only up to the reserve price.

3. The previous purchaser was Mr Kapadia's client, one Ghanshyam Das Singhanian. He bid Rs. 55 lakhs for the item in question, a Tata Hitachi ZX065H Serial No. OACG000076. Because of the manner in which that sale was effected, I had set it aside and parties were put to second round of sale. Now that sale in favour of Ghanshyam Das Singhanian is finally confirmed in the amount of Rs. 55 lakhs. This being the second time of sale is confirmed in his favour, I do not think it is possible to question that sale any further. The Petitioners will adjust the amount of Rs. 55 lakhs towards part satisfaction of their claim.

4. Mr Tamboly on instructions states that the arbitration is going on. In the meantime, the Petitioners are at liberty to withdraw the amount of Rs. 55 lakhs deposited with the Court Receiver with all accrued interest. The Petitioners undertake to make an

appropriate application before the learned sole Arbitrator informing him of the withdrawal and adjustment of this amount of Rs. 55 lakhs and accrued interest and of a corresponding reduction in the quantum of the claim to be adjudicated in the arbitration.

5. The Court Receiver stands discharged without passing accounts. The Petitioners will pay his costs, charges and expenses within one week.

6. The Chamber Summons is disposed of in these terms with no order as to costs

7. Dr Chandrachud requests for stay of this order. Given that the 3rd Respondent does not yet have the name of the buyer or know for certain that there is one, and since there is no offer being made presently, and, moreover, since this prospective (and yet unnamed) buyer did not even respond to the public notice, the request is declined.

(G. S. PATEL, J.)