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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.17 OF 2013

A.N.Shanmugam ... appellant
versus

1.The Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai 9

2.The Tamil Nadu Housing Board,
rep. By its Managing Director,
Chennai 35

3.Auction Sale Confirmation Committee,
Tamil Nadu Housing Board,
Chennai 35.

4.Erode Housing Unit,
Tamil Nadu Housing Board,
rep. By its Executive Engineer and
Administrative Officer,
Erode 638 009

... Respondents

Appeal filed against the order passed by this Court dated 31.10.2012 passed in W.P.No.28886 of 2011.

Petition Under Article 226 of the Constitution of India praying this Hon'ble court to issue writ of Certiorarified mandamus *Calling for the records of the Respondents ending with the order of the 4th Respondent in Letter No. R.9/2975/10 dated 12.12.2011 and quash the same and directing the Respondents 2 and 3 to confirm the sale of Shop S1 and made in Code No. EVP 007, Sampath Nagar, Erode by accepting the highest bid amount of the Petitioner at Rs.86,10,000/-*

For appellant : Mr.Kandhan Duraisami

For Respondents: Mr.A.Srijayanthi, Spl.G.P. For R-1
Mr.V.Anandhamurthy, for R-2 to R-4



J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The appellant participated in the auction conducted by the Tamil Nadu Housing Board for allotting a commercial site. The bid submitted by the appellant was found to be the highest. However, confirmation was not given. The appellant therefore filed a writ petition for a direction to the Tamil Nadu Housing Board (hereinafter referred to as "the Housing Board") to confirm the auction in his favour. The writ petition was dismissed by the learned Single Judge in W.P.No.28886 of 2011. The order dated 31 October 2012 is under challenge in this intra court appeal.

2. The learned counsel for the appellant contended that being the successful bidder, the Housing Board ought to have confirmed the auction in the name of the appellant. According to the learned counsel, the Housing Board was not correct in cancelling the auction on the ground that the sale amount was not fixed correctly.

3. We have also heard the learned counsel for the respondents.

4. The Erode Unit of the Housing Board issued a notification dated 8 August 2011 for allotment of a commercial site. The sale was through sealed tender cum open auction. The appellant deposited 15% of the earnest money and submitted his bid. The proceedings were submitted to the Tamil Nadu Housing Board by its Erode Housing Unit. The management of the Board was of the view that upset price was not correctly fixed and as such, it would be in the interest of the Housing Board to conduct a re-auction, after refixing the upset price.

5. There was no concluded contract between the appellant and the Housing Board. The notification issued by the Housing Board contain a clear statement that the Confirmation committee reserves the right to confirm or reject the bids without assigning any reason. The appellant accepted the said contention and took part in the auction. The appellant was the sole bidder. The Auction Committee took a conscious decision in the interest of the Housing Board not to accept the bid. Since there was no concluded contract, the Board was at liberty to reject the bid. By receiving the bid, the Housing Board has not given any assurance to the appellant that the plot would be allotted to him. We are therefore of the view that the learned Single Judge was correct in dismissing the writ petition.



6. In the upshot, we dismiss the intra court appeal. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai 9

2.The Managing Director,
Tamil Nadu Housing Board,
Chennai 35

3.Auction Sale Confirmation Committee,
Tamil Nadu Housing Board,
Chennai 35.

4.The Executive Engineer and
Administrative Officer,
Erode Housing Unit,
Tamil Nadu Housing Board,
Erode 638 009

+1cc to Mr.V.ANANDHAMURTHY, Advocate, S.R.No. 85334/17

+1cc to Mr.MUTHUMANI DORAISAMI, Advocate, S.R.No. 85774/17

W.A.No.17 OF 2013

SV(CO)
TR(12/01/2018)