

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.44296 of 2017

ORDER:

Heard the party-in-person and Sri Y.N.Lohita, learned counsel for the respondent Nos.4 and 5.

2. The petitioner is a proprietor of a concern by name M/s.Mobina Ice Makers whose factory was located at plot No.43, Ameenpur village, Pattancheru Mandal, Medak District.

3. On 19-07-1990, a term loan of Rs.7.49 lakhs was sanctioned by the A.P. State Financial Corporation (for short 'Corporation') to the said concern for setting up a unit for manufacture of Ice Blocks. It availed a loan of Rs.7.44 lakhs and implemented the scheme in an extent of 800 sq yds in Ameenpur village as mentioned above.

4. For the said loan, the petitioner offered an extent of 4000 sq yds adjacent to the unit as security.

5. As the repayment of the loan was found to be irregular, the Corporation issued a legal notice-cum-sale notice for realization of its outstanding amount on 10-07-2002 by exercising powers conferred on it under Section 29 of the State Financial Corporation Act, 1951.

6. Notwithstanding the issuance of the notice, the petitioner failed to clear the loan. The secured assets were put to sale by advertising in newspapers.

7. Auction was held on 11-12-2002 and 12-12-2002, and both the unit as well as adjoining land were put to auction.

8. One Gaffoor offered Rs.15.30 lakhs with 100% down payment within 85 days to which one P.Mahusudhana Rao, represented by D.V.Narender Babu made a counter offer of Rs.15.20 lakhs payable within 90 days. D.V. Narender Babu on 12-02-2002 endorsed on the proceedings sheet that he dropped from the proceedings, but on the next day, before the bid was finalized, he offered Rs.16.00 lakhs i.e. Rs.70,000/- more than that which was offered by Gaffoor.

9. Alleging that his bid was not accepted, D.V.Narendera Babu filed W.P.No.25560 of 2002 before this Court.

10. The Writ Petition was disposed of on 11-08-2003 directing the Corporation to negotiate with both D.V.Narender Babu as well as Gaffoor and then to proceed in accordance with law.

11. It appears that Narender Babu offered Rs.20.00 lakhs for both the unit of 800 sq yds and collateral security of 4000 sq yds.

12. The petitioner filed W.P.No.23734 of 2003 contending that both the unit as well as the collateral security need not be sold and contended that the Corporation should have invited separate bids for the unit and the land; and if the unit did not fetch the amount due, then the collateral security also can be sold.

13. This contention was accepted and the Writ Petition was allowed on 24-12-2003 and the following directions were issued:

“a) the sale of the Industrial Unit as well as the adjoining land of the petitioner wherein, the 3rd respondent has emerged as the highest bidder, is set aside;

b) the respondents 1 and 2 shall issue fresh notification within four weeks from the date of receipt of a copy of this order inviting the tenders separately for the Unit viz., M/s. Mobnina Ice Makers, Plot No.43, Ameenpur village, Patancheru Mandal, Medak District in 800 sq yds, and for the remaining land belonging to the petitioner,

c) Since the petitioner expresses apprehension as to the fairness in the bidding process, the respondents 1 and 2 shall ensure that the Mandal Revenue Officer, Patancheru mandal is present at the time of receiving the bids;

d) In the event of the bids received for the adjoining land are for a sum equivalent or in excess of the liability of the petitioner towards respondents 1 and 2, the same shall be finalized and there would not be any necessity to conduct the sale of the Unit. The 3rd respondent shall also be entitled to participate in such tenders and bids;

e) In case the bids or tenders for the land is not sufficient to liquidate the liability of the petitioner, respondents 1 and 2 shall be entitled to proceed to receive the bids and tenders for the Unit also. If the aggregate of the bids of the land and Unit is more than Rs.20 lakhs, it shall be confirmed in favour of the successful bidder. On the other hand, if such aggregate of the bids is less than Rs.20 lakhs, the sale shall be confirmed in favour of the 3rd respondent on the basis of the offer made by him in the previous tender.”

14. Thereafter, a fresh advertisement for sale was issued on 25-11-2004.

15. According to the respondent Corporation, seven tenders were received and the highest offer was for 4000 sq yds @ Rs.27,10,000/- from P Madhusudhan Rao, represented by D.V.Narender Babu as against the then total outstanding of Rs.13,79,096/-.

16. So the tenders were opened and finalized in the presence of the petitioner in favour of the said individual for the said sum of Rs.27,10,000/-. The purchaser paid the sale consideration and the 4000 sq yds of land was handed over to the purchaser on 20-04-2005 under a *panchanama*. A telegram was issued to the petitioner on 28-04-2005 to take possession of the unit of 800 sq.yds and the assets/unit were handed over to the petitioner by the Corporation on 05-05-2005 after duly appropriating the sale consideration to its dues; and a sum of Rs.13,25,802/- was paid to the petitioner on 05-05-2005. Subsequently, a sale deed was also registered in favour of the purchaser for the 4000 sq yds of open land on 05-05-2005 by the Corporation.

17. After receiving the said amount for Rs.13,25,802/- from the Corporation on 05-05-2005, the petitioner made a representation on 12-08-2005 seeking interest waiver of 50% i.e seeking a refund of a sum of Rs.9,14,932/-.

18. The Corporation responded to the said request on 24-08-2005 rejecting his request stating that the sale had been completed and the excess sale consideration was also received by

petitioner. It declined to entertain any further correspondence in the matter.

19. However, the petitioner continued to write letters to the Corporation on 31-08-2005, 06-07-2007, 20-03-2014, 06-07-2015, 10-08-2015, 23-09-2015, 20-02-2016, 17-05-2016, 30-05-2016, 12-08-2016, 03-10-2016, 12-04-2017, 08-05-2017, 19-07-2017 and 25-09-2017.

20. Some of these letters had been replied by the Corporation on 02-09-2005, 27-06-2007, 22-09-2014, 07-07-2015, 26-08-2015 and 24-05-2016. In all these letters, Corporation refused to entertain the claim for waiver of interest sought by the petitioner and reiterated that once the sale under Section 29 of the 4000 sq yds security given by the petitioner was completed and the excess consideration was refunded to the petitioner after settling the loan account, there is no right conferred on the petitioner to claim waiver of interest.

21. Petitioner therefore filed the instant Writ Petition seeking direction to the Corporation to grant waiver of interest to a tune of Rs.9,14,932/- and blaming the Corporation for the bankruptcy of his business and claiming to be a victim of an allegedly unfair recovery process initiated by the Corporation.

22. In the affidavit filed in support of the Writ Petition, he alleged that the bidding process for the auction held in 2002 was bogus; that he was kept away from the bidding process; that he filed

W.P.No.23734 of 2003; pursuant to the order passed in the said Writ Petition, fresh bidding was conducted on 01-12-2004 only for the collateral security for the unit; that the bid was continued on 20-12-2004 and 21-12-2004 and even thereafter to favour certain bidders. He contended that more amount would have been realized had the bidding been postponed. He also alleged that he was threatened by officials of the Corporation in order to favour one of the bidders who is a politician's relative. He alleged that the petitioner was made bankrupt on account of the actions of the Corporation.

23. During the course of oral submissions, the party in person was not in a position to cite any rule or policy of the Government entitling him to claim the waiver of interest sought by him.

24. In the absence of any right conferred on the petitioner to claim such benefit either by law or policy of the State, the relief sought by the petitioner cannot be granted.

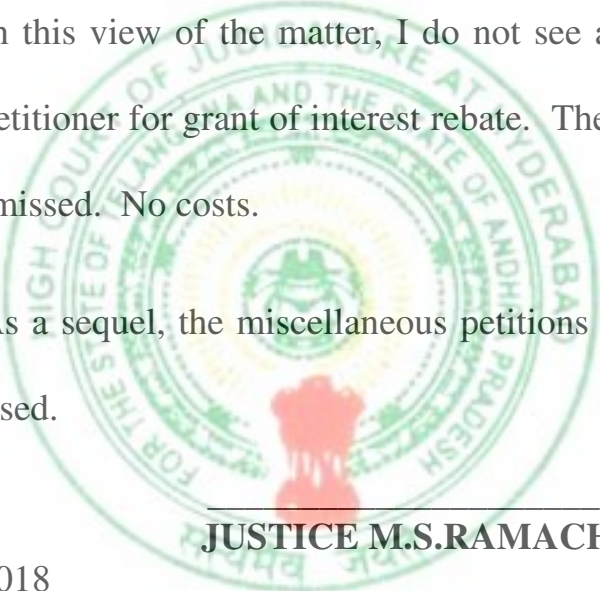
25. As regards his contention that the bidding process leading to the sale of 4000 sq yds of property was bogus , the fact remains that the sale conducted in favour of P.Madhusudhan Rao and others and execution of the sale deed in their favour on 05-12-2005 has not been questioned by the petitioner in any forum till date.

26. More over admittedly petitioner received Rs.13,25,802/- from the Corporation after settling petitioner's loan dues to it on 05-05-2005.

27. So, at this point of time, 13 years after the sale happened, it is not possible to interfere with the sale process or draw any conclusion about the invalidity of the sale, particularly, when the purchaser of the 4000 sq yds land of the petitioner is not made party herein.

28. In this view of the matter, I do not see any merit in the claim of the petitioner for grant of interest rebate. Therefore, the Writ Petition is dismissed. No costs.

29. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.



JUSTICE M.S.RAMACHANDRA RAO

Date: 29-08-2018
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