

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No. 123 of 2018 (O&M)
Date of Decision : 12.07.2018.

Vikrant Arora

Petitioner

Versus

Punjab National Bank and others

Respondents

* * *

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Vikas Bali, Advocate
for the petitioner.

Mr. D.K. Gupta, Advocate
for respondents No.1 to 3.

Mr. K.B.S. Mann, Advocate
for respondents No.4 & 5.

* * *

AVNEESH JHINGAN, J.

The present petition has been filed with a prayer for quashing of e-auction carried out by the respondent bank on 13.12.2017 with respect to the sale of property of M/s. Sona Chandi Warehouse, Village Bale Chak, Verpal Road, Tehsil and District Tarn Taran.

2. The respondent No.1 in the writ petition is Punjab National Bank, Amritsar; respondents No.2 and 3 are the officers of the Punjab National Bank and respondents No.4 and 5 are the authorized officers of M/s Globe Engineering, Amritsar-successful bidder.

3. Respondent No.1 published an auction notice in newspaper for e-auctioning the property of M/s Sona Chandi Warehouse, Amritsar. The petitioner, in order to participate in the e-auction, deposited an amount of ₹ 50,00,000/- (Rupees Fifty Lakhs only) on 08.12.2017 as earnest money. The petitioner was issued a confidential user I.D. and password. The auction was scheduled on 13.12.2017 from 1:00 P.M. To 2:00 P.M. The clause 11 of the tender notice stated that in case the bid is placed in last five minutes of the closing time of the auction, the time will automatically get extended for five minutes. Clause 11 of the tender notice is quoted below:

XX XX XX

(11) The bidders shall improve their offer as mentioned above. In case bid is placed in the last 5 minutes of the closing time of the auction, the closing time will automatically get extended for 5 minutes.

XX XX XX

4. The petitioner and respondent No.4 participated in e-auction. Respondent No.4 gave a last bid of ₹ 5.9 crores at 14:14:43 hours. Petitioner made a bid of ₹ 6 crores but the same was not accepted as the bid was closed at 14:20 hours. Petitioner wrote to respondent bank that he had made a bid of ₹ 6 crores at 14:19 hours but the same was not uploaded. It was informed by the bank that the bid was made by the petitioner at 14:20:02 hours that is after the closure of e-auction, hence, the bid was not accepted. Being aggrieved, the present petition was filed.

5. At the time of issuance of notice of motion, petitioner stated that he was willing to raise his bid to the minimum of ₹ 6.20 crores. Notice of motion was issued on 09.01.2018. During the pendency of the writ petition, in order to satisfy the petitioner that last bid of petitioner was made

after the closure of the auction, the bank was directed to permit inspection of J.P. Rolls to the petitioner. After the inspection of the J.P. Rolls, the petitioner had no grievance with regard to the time of the last bid. On 07.02.2018, the learned counsel stated that if there is fresh auction, the petitioner is willing to bid a minimum of ₹ 6.5 crores. The order dated 07.02.2018 is quoted below :-

CWP No. 123 of 2018 :

Adjourned to 05.03.2018.

Learned counsel appearing on behalf of the petitioner states that if there was a fresh auction, the petitioner would be willing to bid a minimum of Rs. 6.50 crores.

Till further orders, the bank shall maintain status quo in respect of the possession of the property.

6. In pursuance to the offer of the petitioner, the bank made a statement before this Court on 09.05.2018 that the respondent-bank has reconsidered the matter and offer made by the petitioner of ₹ 6.5 crores is acceptable to them. The bank would return the amount of the highest bidder alongwith interest as may be admissible. The petitioner was given an opportunity to deposit 25% of the bid amount. The order dated 09.05.2018 is quoted below:-

CWP No.123 of 2018:

Learned counsel for the Bank states that in compliance to the order dated 20.03.2018, the matter has been reconsidered and the offer of Rs. 6.50 crores made by the petitioner is acceptable to it. The Bank would return the amount of the highest bidder alongwith interest as may be admissible.

Counsel for the petitioner is, however, not present.

In view of the willingness shown by the Bank, the

petitioner is given an opportunity to deposit 25% of the bid amount within one week and file a compliance affidavit.

List on 21.05.2018.

7. The petitioner filed an affidavit stating that he has complied with the order dated 09.05.2018 and deposited ₹ 1.63 crore i.e. 25% of the bid amount.

8. Learned counsel for the petitioner, however, requested that inspite of acceptance of the offer of the petitioner, a fresh e-auction should be held in which his minimum bid be considered as ₹ 6.5 crores and the amount deposited by him be treated as his earnest money.

9. In view of the statement made by the petitioner that in case fresh e-auction is held, his minimum bid would be ₹ 6.5 crores and keeping in view the interest of the bank, it is ordered that the respondent-bank would hold a fresh e-auction of the property of M/s Sona Chandi Warehouse and the reserve price of the property would be fixed as ₹ 6.5 crores. 25% of the bid amount deposited by petitioner would be treated as his earnest money. Needless to add in case, someone else makes a higher bid than ₹ 6.5 crores, the highest bidder would be entitled to have the property, otherwise bid of the petitioner for ₹ 6.5 crores will be final. The interference in the writ jurisdiction was made on the basis of the statement made by the petitioner to the effect that he would make a minimum bid of ₹ 6.5 crores. In case the petitioner backs out from his statement the amount deposited by the petitioner would be forfeited by the bank.

10. Learned counsel for the respondent No.4 stated that the bank has refunded his amount but has not paid any interest as per statement

made on 09.05.2018 before this Court. Suffice to say that respondent No.4

shall make an application to the bank for payment of interest on the amount deposited by him. In case such an application is made, the respondent bank would decide the same and pay the admissible interest expeditiously in accordance with law.

11. The present writ petition is disposed of, accordingly.

[AJAY KUMAR MITTAL]
JUDGE

[AVNEESH JHINGAN]
JUDGE

12.07.2018
pankaj baweja

Whether speaking/reasoned ?	Yes / No
Whether reportable ?	Yes / No