

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-29997-2017

Date of Decision: 9.1.2018

Joneja Infraprojects Private Limited, New Delhi

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

PRESENT: Mr. Gorav Kathuria, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to transfer Institutional Plot No. 29, Sector 20-B, Faridabad in its name being the highest bidder in the e-auction conducted by Phoenix ARC Private Limited.

2. Institutional Plot No.29, Sector 20-B, Faridabad was allotted to M/s Lakhani Medicare Pvt. Ltd. by respondent No.5 vide allotment letter dated 28.9.2006 (Annexure P-1). The allottee had deposited the entire cost of the plot and, therefore, the conveyance deed was executed on 8.8.2008 in its favour. The said allottee had applied to respondent No.5 to get mortgage the plot in question in favour of Canara Bank, Prime Corporate, Branch-II, New Delhi and the said permission was given with certain conditions by respondent No.5 vide letter dated 28.1.2009 (Annexure P-2). Since M/s

Lakhani Medicare Pvt. Ltd. had failed to repay the loan amount to the Canara Bank, Phoenix ARC Private Limited, Mumbai had initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in pursuant to the assignment of debts by Canara Bank in its favour being the plot mortgaged with them. After taking the possession of the said plot in question, Phoenix ARC Private Limited issued a public notice dated 20.1.2016 (Annexure P-3) for online e-auction of sale of assets for a reserve price of ₹ 10 crores. The petitioner participated in the said e-auction and being the highest bidder of Institutional Plot No.29, Sector 20-B, Faridabad, Phoenix ARC Private Limited vide letter dated 23.2.2016 (Annexure P-4) confirmed the sale in its favour and called the petitioner to deposit an amount equivalent to 25% of the total sale price before 5.30 PM on the date of auction, i.e. 23.2.2016 and the balance 75% of the sale price was to be deposited within 15 days from the date of confirmation of sale. Phoenix ARC Private Limited through their authorized officer had executed the transfer deed-cum-sale deed dated 29.8.2016 (Annexure P-5) in favour of the petitioner for the plot in question. The authorized officer of Phoenix ARC Private Limited moved an application dated 1.9.2016 (Annexure P-6) to respondent No.5 for transfer of the institutional plot in question in favour of the petitioner, but to no effect. Thereafter, the petitioner sent a representation dated 14.12.2016 (Annexure P-7) to respondent No.5 for transfer of the plot in question, but no response has been received till date. However, respondent No.4 vide letter dated 25.4.2017 (Annexure P-8) sought permission from respondent No.3 to transfer the plot in question in favour of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 14.12.2016 (Annexure P-7) to respondent No.5, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.4 to take a decision on the representation dated 14.12.2016 (Annexure P-7), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner or its authorized representative within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 9, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes