

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10110 OF 2019

Mr. Gautam Vijay Bora

...Petitioner

Versus

The Joint Charity Commissioner, Pune & ...Respondents
Ors.

.....

Ms. B.M.Jarandikar, Advocate for the Petitioner.

Mr. S.P.Tiwari, A.G.P. for respondent No. 1.

Mr. A.K.Gawali, Advocate for the Caveator.

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 14-08-2019.

PER COURT :

01. The petition is filed by a person who claims to be a journalist and operating a weekly "Nagar Police Times" and is also an agriculturist. He claims to be the highest bidder with regard to the sale of a property belonging to the respondent No. 2 trust admeasuring 264.2 square mtrs in CTS 910 within the limits of the Ahmednagar Municipal Corporation. The said property includes a three storeyed building admeasuring 591.61 square mtrs.

02. The petitioner is aggrieved by the Order dated 1.6.2019 passed by the Charity Commissioner, Pune by which the trust is directed to publish notice in two daily news papers having wide circulation in the area where the property is situated, with the rider that the notice

should carry even the quoted price by the petitioner herein. The petitioner is aggrieved by the said direction on the ground that he has offered Rs. 4 crores 51 lacs to purchase the said property.

03. It appears from the record that the trust has, initially, without the leave of the Charity Commissioner, published a notice in daily Prabhat and daily Nagar Swatantrya on 5.9.2018. The learned A.G.P. appearing on behalf of the added respondent No. 3-Charity Commissioner, Pune submits that the well known news papers at Ahmednagar city are Dainik Lokmat, Dainik Divya Marathi and Dainik Sakal. He submits that he has not heard of the two news papers Dainik Prabhat and Dainik Nagar Swatantrya in which the trust published a notice on 5.9.2018.

04. A caveat has been filed in this matter on behalf of one Shri Prasad Shriram Patki, who claims to be the proprietor of the Kuber Importers and presently is the sole tenant in the entire property which is sought to be sold. He submits that he has offered Rs. 4 crores and 56 lakhs for the said property and he stands by the same. He has already moved an application on 20.3.2019 before the Charity Commissioner, Pune, viz application No. 36/2019. He has not been arrayed as a respondent in this proceedings.

05. The Honourable Supreme Court, in the matter of **Valji Khimji and company V/s Official Liquidator of Hindustan Nitro Product (Gujarat) Limited and Ors. (2008) 9 SCC 299**, has laid down the law that an auction is necessarily an open invitation after wide publicity in well known news papers. In **special Deputy Collector, Land Acquisition C.M.D.A. V/s J. Sivaprakasam and Ors. (2011 (1) SCC 330**, the Honourable Apex Court has held that the requirement of proper publication in news papers having a wide circulation in the locality, has its beneficial consequences. The news paper should have a reasonably good circulation in the locality.

06. It is a common knowledge that the news papers like daily Lokmat, daily Sakal, Divya Marathi have a wide circulation in the limits of the Ahmednagar Municipal Corporation.

07. In the above backdrop, if the Charity Commissioner has directed the trust to publish a public notice in two daily news papers having wide circulation in the municipal limits of Ahmednagar Corporation, I do not find that the said Order could be termed as perverse or erroneous.

08. It also can not be ignored that the trust, after having the notice published in the two news papers which

can not be said to be widely circulated in the Ahmednagar Municipal Corporation, has approached the Charity Commissioner for seeking permission to sanction the sale to this petitioner. There are no details placed before the Charity Commissioner as to what is the actual price of the said property considering the ready reckoner rates keeping in view that the district Ahmednagar is one of the largest district in the State of Maharashtra and the property is situated within the limits of the Ahmednagar Municipal Corporation. It appears that the Charity Commissioner has found it appropriate to tread cautiously so as to avoid selling the property at lower rates and has directed the publication of the notice as set out in the impugned Order.

09. In view of the above this petition being devoid of merit, is therefore, dismissed.

10. It is expected that the trust would follow the impugned Order of the Charity Commissioner in letters and spirit keeping in view the largely circulated news papers in the Municipal Corporation, Ahmednagar City.

[RAVINDRA V. GHUGE]

JUDGE

Dahibhate/-