

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8791 OF 2019

M/s.Lemon Seeds Hospitality Pvt. Ltd. }	Petitioner
versus	
Union of India and Ors. }	Respondents

Mr.Subhash Jha with Mr.Hari Krishna Mishra i/b.
M/s.Law Global for the petitioner.

Ms.A.A.Purav-AGP for respondent nos. 2, 3 and 5.

Mr.Kottapalli Suryakrishnamurty-Deputy Collector
and Competent Authority (NSEL) present.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

DATED :- OCTOBER 16, 2019

P.C. :-

1. On 16th September, 2019, we passed the following order:-

“1. After this petition was argued for some time, Mr Jha submits that all that the petitioner is seeking is that the purchase price deposited by it with the respondents, and particularly the entity/authority holding the auction be refunded with accrued interest.

2. The auction purchasers – petitioners before us are no longer interested in obtaining a conveyance of the immovable property in their favour after having tendered the entire purchase price. They seek refund of the same with accrued interest.

3. On such a petition, which ordinarily would not have been entertained, we directed the learned Advocate appearing for the respondents to take instructions.

4. It is stated that the auction was fixed by the 2nd respondent on 4th January 2008. The petitioner had placed their bid/offer. But later on they discovered that the property is embroiled in litigation and, therefore, they are not interested in obtaining the conveyance in their name.

5. On instructions, Mrs Purav appearing on behalf of the respondents-State states that the authority in charge of the auction is ready and willing to refund the principal amount but not the interest component as claimed.

6. She says on instructions that the amount (principal) would be refunded within four weeks from today. We direct that the same be paid over to the petitioner.

7. In so far as the claim for interest is concerned, we raised some queries. Firstly, where was the purchase price deposited by the authority holding the auction. Secondly, was it deposited in a fixed deposit with a nationalised bank or as stated orally in a current account with a nationalised bank. Thirdly, do such deposits earn interest or not and what is that component. Finally, if the amount is deposited in the Government Treasury, is it a policy not to grant interest as nothing accrues on the same.

8. Some conflicting oral statements are made on these points over which we are not happy and we direct the gentleman who is personally present in Court to file his personal affidavit stating on oath the answers to our queries and as to where the money was deposited and why he is averse to grant interest on the same. That affidavit be also filed within four weeks but that issue has nothing to do with our direction to refund the principal amount within four weeks from today.

9. Place the petition on 14th October 2019.

10. Let the amount be credited by RTGS to the bank account of the petitioner within the above period on the petitioner providing all details in relation to its bank account and the branch."

2. After that order was passed, a reply affidavit is filed by the competent authority (Deputy Collector and Competent Authority,

NSEL, Mumbai City). It is stated that a sum of Rs.12.71 crores has been remitted to the bank account of the petitioner on 21st September, 2019 and in support of this statement, a copy of the bank record or account is annexed.

3. Now, the claim for interest is disputed by the respondents on the ground that the amount is kept in a current account, where no interest is gained. The other argument is that the petitioner was aware of all the facts and orders of the designated court, but willingly chose to make final payment. Hence, the petitioner cannot allege willful misrepresentation by the third respondent and therefore, the prayer for interest be rejected.

4. A rejoinder affidavit is sought to be tendered and to which even a sur-rejoinder of the competent authority is ready, but it is apparent to us that the claim for interest on the amount, which is now credited to the bank account of the petitioner, cannot be agitated in writ jurisdiction. More so because that claim is also having a share of equity in it. Whether there is anything willful, intentional, deliberate or fraudulent act on the part of the competent authority, which enables the petitioner to allege and prove that the petitioner was kept back from enjoyment of the amount or from the property, would require a detailed analysis and appreciation of the evidence on record. This is permissible in the event the petitioner is still aggrieved and files a suit.

5. We do not think that in writ jurisdiction, after the principal amount is now credited to the account of the petitioner, this petition should survive. The writ petition is, therefore, disposed of by clarifying that this court has not examined the claim for interest in any details.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)