

14.10.2020
DL-11

ssd

FMA 919 of 2020
(MAT 652 of 2020)
with
CAN 1 of 2020
with
CAN 2 of 2020
(Via Video Conference)

Domkal Panchayat Samity and ors.
Vs.
Domkal Thana Ferry Patuny Samabay
Samity Limited and ors.

Mr. Amanul Islam

...for the appellants.

Mr. Kamalesh Bhattacharyya
Mr. S. Shah

...for the respondent no.1.

The appeal is against a rather unusual ex parte order of May 30, 2020 by which the complete relief sought in the writ petition appears to have been granted without any attempt to effect service on the appellants herein, the relevant panchayat samity.

The matter pertains to the settlement of a ferry in Murshidabad.

The principal ground urged by the appellants is that a public auction was conducted upon due notice, whereat the writ petitioner did not participate. Notwithstanding such conduct, the writ petitioner purported to challenge the holding of the auction on frivolous grounds and obtained an ex parte order that

perpetuates the writ petitioner's control of the ferry ghat indefinitely and at a price which is about Rs.5 lakh less than the best price offered at the auction.

The writ petition is required to be heard. Disputed questions arise and affidavits need to be filed. Since it is the undisputed position that the writ petitioner did not participate in the auction and the appellants claim that the difference in price between what was earlier paid by the writ petitioner and the highest offer received at the auction is in excess of Rs.4 lakh, the writ petitioner is put on terms.

The order impugned dated May 30, 2020, will continue unconditionally till October 27, 2020. However, a sum of Rs.6 lakh ought to be deposited on behalf of the writ petitioner with the panchayat samity by or before October 27, 2020, for the impugned order to continue to hold the field thereafter. In the event of default in making such deposit, the impugned order of May 30, 2020 will stand vacated. In the event the deposit is made, the panchayat samity will invest the amount in a nationalised bank by way of fixed deposit and will have no right to appropriate any part thereof or the interest thereon without the express previous leave of the court. The current Sabhapati of the panchayat samity will be personally responsible in such regard.

The appellants will file their affidavit-in-opposition

to the writ petition within a week of the reopening of court after the puja vacation; reply thereto, if any, may be filed within a week thereafter. The writ petition will appear before the appropriate Bench on the second Monday in December, 2020 with liberty to the parties to seek an early hearing.

It is made clear that the writ petition would be decided uninfluenced by the observations in the order dated May 30, 2020. It will also be open to the person who bid the highest at the auction to participate in the proceedings.

FMA 919 of 2020 and the interim applications therein are disposed of.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)

