



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.6559 of 2020

and

W.M.P. (MD)No.5906 of 2020

M.Jeyaveera Ambigavathi

... Petitioner

Vs.

1.The Tamil Nadu Housing Board,
Rep by its Managing Director,
Nandhanam,
Chennai - 35.

2.The Manager - Marketing and Service,
Madurai Housing Unit,
TNHB, Ellis Nagar,
Madurai - 16.

3.The Sale Consideration Committee,
Represented by its Member Secretary,
Having office at Chennai.

... Respondents

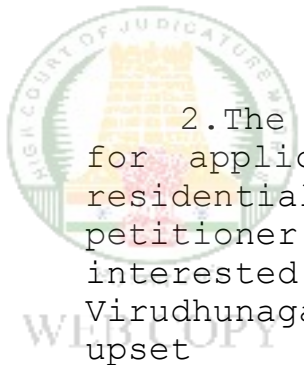
(R3 is suo motu impleaded vide Court order
dated 08.06.2020 in W.P. (MD)No.6559 of 2020)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order passed by the 2nd respondent in Letter No.A3/VDR-210(CP-III)/2019 dated 16.03.2020 and to quash the same and consequently directing the respondents 1 and 2 herein to confirm the sale infavour of the petitioner for the plot in Serial No.143 MDUNIL Commercial purpose Plot No.3 in Virudhunagar 210 Area Development Scheme, Virudhunagar measuring an extent of 16,968 Sq. feet.

For Petitioner : Mr.K.K.Senthilvelan
For Respondents : Mr.Mahaboob Athiff

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the respondent/Board.



2.The respondent/Board issued a tender notification calling for applications from the interested persons for purchase of residential and commercial plots. In response to the same, the petitioner herein submitted her application. The petitioner was interested in Serial No.143, commercial purpose plot No.3 in Virudhunagar District. It is not in dispute that even though the upset price was fixed only at Rs.94,69,000/-, the petitioner had offered a bid of Rs.1,06,20,000/-. However, the petitioner's offer was not confirmed by the sale confirmation committee and the amount of Rs.26,55,000/- deposited by her was also returned along with the impugned communication dated 16.03.2020. The same is put to challenge in this writ petition.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.The petitioner's counsel would point out that it is not case of the respondent/Board that there was any collusion. The petitioner's counsel would also fault the reason set out in the impugned order that the amount fetched in the auction is not a competitive one. The pointed contention of the petitioner's counsel is that if really the plot was worth far more, the respondent/Board ought to not have fixed the upset price at Rs.94,69,000/-. The petitioner had offered her bid, which was full Rs.12,00,000/- above the upset price fixed by the respondent/Board themselves. The petitioner's counsel would also contend that she was not heard before the impugned order came to be passed.

5.I am not persuaded by any of the submissions made by the learned counsel appearing for the writ petitioner. As rightly pointed out by the learned standing counsel appearing for the respondents, the tender condition itself clearly stated that the auction sale confirmation committee of the Board reserved the right to confirm or to reject the auction sale. It is also stated that the payment of 15% of the bid amount was only to ensure earnestness on part of the bidder and that it would not confer any right on him or her to claim confirmation of sale. It has further been clarified in the tender conditions that if the sale is not confirmed, the application money and 15% of the bid amount paid by the applicant will be refunded without interest. The learned standing counsel draws my attention to the decision of the Hon'ble Supreme Court reported in **(2007) 1 SCC 477 (Rajasthan Housing Board v. G.S.Investments)**. In the said decision, the Hon'ble Supreme held that even if the public auction had been completed and the claimant was the highest bidder, no right would accrue to him till the confirmation letter has been issued to him. The



Hon'ble Division Bench of this Court in W.A.(MD)No.528 of 2016 (V.Dharmaraj V. The Managing Director and Another) by order dated 06.04.2016 also held that merely because a person happens to be the highest bidder, he does not acquire a right to compel auctioneer to accept the offer. The Tamil Nadu Housing Board is the vender of the commercial plots. It is always open to the vender to accept the offer or to reject the same. There is considerable merit in the contention of the learned standing counsel for the respondents that the tender notification should only be considered as an invitation to offer and that what was offered by the petitioner herein should be considered as offer in the proper sense of the term. It is open to the Board either to accept the same or to reject the same. In this case, the sale confirmation committee had assigned the reason that the offer amount is not competitive and that the site is located in a prime location on the four way road and that the rate offered by the petitioner is less than the comparable sale value of commercial sites sold earlier and that is why, they decided to reject the same and go for re-auction to fetch more revenue to the Board. Since solid reasons have been assigned in the rejection letter, I am of the view that no interference is called for. I could have faulted the Board if they had retained the 25% amount deposited by the petitioner herein. In fact along with the rejection letter, a cheque representing the amount paid by the petitioner had also been enclosed. Therefore, I have to necessarily hold that the respondent/Board had acted strictly in terms of the tender terms and conditions. By no stretch of imagination can I fault the conduct of the respondent/Board as unreasonable. It is true that the writ petitioner was a bonafide participant in the entire process. It is true that the petitioner had acted in terms of the tender. But then, that by itself will not confer any right as such. Only if the interest of the petitioner had blossomed into a legal right, she could have maintained a writ petition before this Court. In this case, even before such blossoming could take place, the entire process got aborted. Therefore, I am not in a position to grant any relief. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

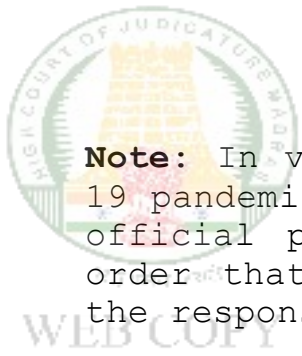
Deputy Registrar(LA & MC)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

W.P. (MD)No.6559 of 2020
26.08.2020

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