

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT APPEAL NO.953 OF 2019

08.01.2020

Between:

The Hyderabad Metropolitan Development Authority (HMDA)
and another

...Appellants

And

Disha Advertising and others

...Respondents

Counsel for the appellants : Mr. V. Narasimha Goud

Counsel for the respondents 1 and 2 : Ms. Anjana Taggarse

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellants are aggrieved by the order 13.11.2019 passed by a learned Single Judge in I.A.No.3 of 2019 in I.A.No.1 of 2019 in W.P.No.1009 of 2019, whereby the learned Single Judge has confirmed the interim order granted by him, and has directed the writ petitioners therein to pay certain amount to the appellants.

Briefly, the facts of the case are that the petitioner No.1, M/s. Disha Advertising, is an outdoor advertising agency. The petitioner No.1 is carrying on the business of advertising contracts, including erection of hoardings, installation of LED display boards, and display of advertisements. On 27.07.2018, the appellant-respondent No.1, HMDA, issued a tender notification for grant of licence for design, procurement, installation, operations & maintenance of pillar advertisement boards on pillar Nos.120 to 200, under PVNR Expressway, Hyderabad. Since the petitioner No.1 was interested in bidding, it had submitted its bid documents for installation, and advertisement of 160 advertisement LED boards on 80 pillars on the said Expressway. Although the upset price was fixed at Rs.19,20,000/-, the petitioner No.1 submitted its bid for Rs.55,00,000/-. Therefore, the petitioner No.1 emerged as the highest bidder in the auction. Furthermore, according to the petitioner No.1, on 01.09.2018, the bid was duly accepted. The acceptance of the bid was also communicated to the petitioner No.1 on 01.09.2018. However, when the petitioner No.1 requested the appellant-respondent No.1 to conclude the formal execution of the contract, the appellant-respondent No.1 informed the petitioner No.1 that since they are busy with the election, the same cannot be concluded. As the bid has been accepted on 01.09.2018, the petitioners were permitted to install the advertisement boards at their convenience, and they were assured that

the paper work would be concluded at the earliest. Despite the assurance, the appellants did not take any substantive steps. Therefore, the petitioners were constrained to file the writ petition before the learned Single Judge. As mentioned above, by order dated 13.11.2019, the learned Single Judge has confirmed the interim stay order granted by him. Hence, this appeal before this Court.

Mr. V. Narasimha Goud, the learned counsel for the appellants, vehemently contended that mere acceptance of the bid does not conclude the contract, as a letter of acceptance has to be issued by the appellants in favour of the petitioners. Moreover, a licence agreement has to be entered between the parties, and the site has to be physically handed over to the petitioners. According to the learned counsel, these steps are yet to be initiated. Hence, the learned Single Judge is unjustified in concluding that the contract was awarded on 01.09.2018. Therefore, the conclusion drawn by the learned Single Judge that there is a strong *prima facie* case in favour of the petitioners is highly misplaced.

On the other hand, Ms. Anjana Taggarse, the learned counsel for the respondent-petitioners, pleads that by communication dated 01.09.2018, the petitioners were informed that their bid has been accepted, and the tender has been awarded. Thus, the petitioners have a legitimate expectation that a formal contract would be concluded. Therefore, the petitioners were justified in taking over the possession of the site, and in erecting the advertisement boards. Since the petitioners have already invested lakhs of rupees in erection and installation, they do have a strong *prima facie* case, and balance of convenience in their favour. Therefore, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

A bare perusal of the terms and conditions of the tender notification clearly shows that a letter of acceptance has to be granted by the appellants to the petitioners. Moreover, the issuance of letter of acceptance has to culminate in signing of the licence agreement. There is not an iota of evidence to show that a letter of acceptance has been issued by the appellants to the petitioners. However, the issue whether the acceptance of the bid would tantamount to entering into a contract needs to be decided by the learned Single Judge.

Therefore, this Court is of the opinion that without upsetting the impugned order dated 13.11.2019, it will be in the interest of justice to balance the conflicting interest of both the parties. Hence, this Court requests the learned Single Judge to finally decide the Writ Petition No.1009 of 2019 as expeditiously as possible and preferably before 15.02.2020. Although this Court has not interfered with the impugned order, the appellants are directed not to insist on the vacation of the stay order, till a final decision is taken in the matter by the learned Single Judge.

With these directions, this writ appeal stands disposed of. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

08th January, 2020
JSU

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