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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 01.12.2020

+ CM(M) 605/2020 & CRL.M.(BAIL) 8372/2020 & CM
APPL.30747-48/2020

DELHI URBAN SHELTER IMPROVEMENT BOARD (DUSIB)
..... Petitioner

versus

HINDUSTAN TRADING COMPANYRespondent

Advocates who appeared in this case:

For the Petitioner: Mr.Rishi Kant Singh, Advocate.

For the Respondent: Mr.Rajesh Bhatia, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 18.09.2020 whereby the application of the respondent under Order XXXIX Rule 1 & 2 CPC has been allowed and an injunction has been granted restraining the petitioner from stopping the respondent from participating in any bid conducted by the petitioner.
3. Petitioner had invited tender for allotment of parking sites by Notice Inviting Tender dated 07.01.2019. Respondent had participated

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to HMJ Sanjeev Sachdeva.

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in the Notice Inviting Tender for a parking site and was the higher bidder and was found successful.

4. After the tender was awarded to the respondent, respondent did not comply with the tender conditions. The contention of learned counsel for the respondent is that petitioner was in breach of the notice inviting tender and did not offer the entire site as was mentioned in the notice inviting tender and wanted to hand over only a portion of the site.

5. This is disputed by learned counsel for the petitioner. He submits that the allocation was on '*as is where is basis*' and all bidders were invited to inspect the area before submitting their bids and it was for the respondent to have satisfied himself with the area that was subject matter of the tender.

6. Petitioner thereafter cancelled the award and also black listed the respondent from participating in any tender bid of DUSIB for five years.

7. Impugning the said decision, respondent filed the Subject Suit for declaration, damages as well as permanent injunction. Learned counsel for the petitioner submits that the suit is not maintainable.

8. Petitioner has impugned order dated 18.09.2020 whereby the application of the respondent under Order XXXIX Rule 1 & 2 CPC has been allowed and petitioner has been restrained from stopping the respondent from participating in any bid conducted by the petitioner

till disposal of the suit.

9. It is contended by learned counsel for the petitioner that the order is bereft of any reasoning and does not even consider the facts of the case at all.

10. Perusal of the order shows that though the order runs into 17 paragraphs. From paragraph 1 to 11 the Court has noticed the submission of the parties. In paragraphs 12 to 15 the Court has considered the legal position and in paragraph 16 in one line the Trial Court has held that there is a prima facie case in favour of the plaintiff. Trial Court has not adverted to either the facts or the submissions of the parties to come to the conclusion that there is a strong prima facie case in favour of the respondent/plaintiff for grant of an ad interim injunction.

11. Since the order dated 18.09.2020 is bereft of any reasoning, same cannot be sustained and is accordingly set aside. The case is remitted to the Trial Court to reconsider the application of the respondent under Order XXXIX Rule 1 & 2 CPC and thereafter pass a reasoned speaking order.

12. Parties shall appear before the Trial Court on the date already fixed i.e. 09.12.2020 and Trial Court shall thereafter expeditiously consider and dispose of the application under Order XXXIX Rule 1 & 2 CPC.

13. It is clarified that this Court has neither considered nor

commented upon the merits of the contention of either party and the Trial Court is at liberty to decide the application in accordance with law without influenced by anything stated in this order.

14. The petition is allowed in the above terms.

15. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

DECEMBER 01, 2020
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SANJEEV SACHDEVA, J.

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