

29.
14-02-2022
debajyoti
(Ct. no.06)

MAT 899 of 2019
with
IA NO:CAN/1/2019 (Old NO:CAN/6600/2019)

The State of West Bengal & Ors.
Vs.
Sri Tarun Sengupta & Anr.

Mr. Jishnu Chowdhury,
Mr. Robiul Islam

... For the Appellants.

Affidavit-of-Service filed in Court today be taken on record.

This is an appeal against an order dated December 12, 2018, whereby W.P. No.20549(W) of 2018 was disposed of. The operative portion of the order under appeal reads as follows:

“ In such circumstances, the authorities will accept the bid of the petitioner at Rs.90,00,000/- (Rupees Ninety Lakh Only) in respect of mining block MSB37, P.S. - Kotwali, Mouza - Kankaboti, J.L. No.142, Plot No.548(P).

Upon deposit of a sum of Rs.45,00,000/- (Rupees Forty Five Lakh only) with the authorities, they will proceed to grant the mining lease to the petitioner, in accordance with law. Needless to say that, the petitioner will pay the balance amount, in accordance with the terms and conditions of the tender. It will comply all other

requisites as required in respect of a mining lease.

Needless to say that, in the event of default payment of the balance amount, the authorities are at liberty to take appropriate steps against the petitioner. ”

The writ petitioner/respondent participated in an auction process for grant of a mining lease. The reserved price was fixed by the State at Rs.60,00,000/- (wrongly printed as Rs.6,21,647/- in the impugned order). The highest bid was Rs.999999999999647/-. The second highest bid was that of the writ petitioner which was rupees ninety lakh. The writ petitioner contended that the highest bidder did not show any interest in the matter. Accordingly, his bid should be accepted. The learned Judge passed the order which is under appeal.

Appearing on behalf of the State, learned advocate submits that the highest bid was obviously unrealistic and not genuine. The second highest bid that was put in by the writ petitioner was also not genuine. The order was passed on December 12, 2018. The writ petitioner has not deposited a single *naya paise* with the State. Obviously, he had not genuine interest in the matter.

We see from the Affidavit-of-Service filed in Court today that the writ petitioner has been served. Nobody has appeared to represent him.

Looking at the facts and circumstances of the case, we have no doubt in our mind that the writ petitioner was not a genuine or *bona fide* bidder.

The State says that unless liberty is granted to the State to proceed with fresh auction process, the State will suffer loss.

Given the conduct of the writ petitioner/respondent, we have no doubt in our mind that the writ petitioner never really intended to obtain the concerned mining lease upon payment of the price offered. The writ petitioner has forfeited his right that accrued to him by reason of the order under appeal.

We make it clear that since even after lapse of more than three years, the writ petitioner has not deposited the amount that he was directed to deposit by the learned Single Judge, it will be open to the State to initiate fresh process for granting mining lease in respect of the concerned land.

With the above observations, the appeal and the connected application are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.) **(Arijit Banerjee, J.)**