

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 20797 of 2022

Lalit Chhatrapal

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Petitioner

Mr. S. Dash, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. P.K. Muduli, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

17.08.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S. Dash, learned counsel appearing for the petitioner and Mr. P.K. Muduli, learned Additional Government Advocate for the State opposite parties.

3. The petitioner has filed this writ petition seeking to quash the tender call notice no.3466/Touzi dated 02.08.2022 under Annexure-10, so far as it relates to “BORDA-II Sand Sairat” (Sl. No.10) and to issue direction to opposite party no.3 to recalculate the chargeability of stamp duty and registration fees in tune with the letter no.IX-70/2022 2051/Regn. Dated 31.05.2022 under Annexure-8 and Article-23 of Schedule-1 of the Indian Stamp Act read with the letter under Annexure-3, within a stipulated period of time, for execution of the agreement in respect of “BORDA-II

Sand Sairat”.

4. Mr. S. Dash, learned counsel appearing for the petitioner contended that opposite party no.3 issued advertisement no.3073 dated 20.08.2020 inviting bids from the eligible bidders to participate in different sand sairats, including “BORDA-II Sand Sairat”. Pursuant to such advertisement, the petitioner participated in the auction process and he, having become successful, got environment clearance from the competent authority. Thereafter, on being called upon by opposite party no.3, the petitioner deposited the Government dues, which was duly acknowledged by the authority on 19.08.2021 by giving money receipt vide Annexure-3. But, on 29.02.2022, opposite party no.3 issued notice directing the petitioner to make arrangement for execution of lease deed within seven days. On receipt of the said notice along with draft assessment of stamp duty, the petitioner raised objection by way of filing representation dated 24.02.2022 to the Tahasildar, Kalahandi with regard to methodology adopted for calculation of stamp duty. But without finalizing the same, as required under law, the authority has issued fresh tender vide Annexure-10 dated 02.08.2022, wherein the very source has been indicated at Sl. No.10, which is the subject matter of challenge before this Court. It is contended that the petitioner was the highest bidder pursuant to notice issued under Annexure-1 dated 20.08.2020. Instead of resolving the issue with regard to payment of stamp duty, the authority should not have issued fresh

advertisement, which is arbitrary, unreasonable and contrary to the provisions of law.

5. Mr. P.K. Muduli, learned Additional Government Advocate appearing for the State opposite parties vehemently contended that since the petitioner did not execute the agreement, on the request of opposite party no.3, steps have been taken for issuance of fresh advertisement putting the source for auction without causing loss of revenue to the State.

6. Having heard learned counsel for the parties and after going through the records, it appears that there is no dispute with regard to the fact that pursuant to advertisement issued under Annexure-1 dated 20.08.2020, the petitioner was the successful bidder and he deposited the requisite amount, which was duly acknowledged by the authority. Thereafter, opposite party no.3 called upon him to execute lease deed, but the petitioner disputed the methodology adopted by the authority for calculation of stamp duty under Article-35 (a) & 35 (b) of the Indian Stamp Act. Therefore, the petitioner filed representations dated 24.02.2022 and 12.07.2022 to opposite party no.3 vide Annexures-6 & 9 respectively, which are said to be pending.

7. In that view of the matter, this Court disposes of the writ petition directing opposite party no.3 to consider and dispose of the representations of the petitioner filed on 24.02.2022 and 12.07.2022, vide Annexures-6 & 9 respectively, within a period of one month from the date of receipt of certified copy of this order

by giving opportunity of hearing to the petitioner and recalculate the stamp duty, as admissible to him and communicate the result to him. Till such exercise is completed by opposite party no.3, “BORDA-II Sand Sairat” (Sl. No.10) of the advertisement under Annexure-10 dated 02.08.2022, may not be put to auction.

8. With the above observation & direction, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Arun/Subha

(G. SATAPATHY)
JUDGE

