

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14382 OF 2022

Vikramsinh Bhikajirao Gaikwad

..... Petitioner

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr. Bhushan Walimbe for the Petitioner.

Mr.A.P.Vanarase, A.G.P. for the State – Respondent nos. 1 to 4.

Mr.Rajendra Yadav, Nayab Tahsildar of Gadhinglaj is present in Court.

CORAM: R. D. DHANUKA AND

M.M. SATHAYE, JJ.

DATE : 9TH DECEMBER, 2022

P.C:-

Rule. The respondents waive service. Rule returnable forthwith.

Taken up for final disposal by consent of the parties.

2. Heard learned counsel for the petitioner and Mr. Vanarase, learned A.G.P. for the respondents.

3. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks writ of mandamus thereby

directing the respondents to accept 75% of the amount from the petitioner and complete the auction process conducted on 5th July, 2022.

4. Learned counsel for the petitioner invited our attention to the impugned order dated 3rd October, 2022 by which the 25% amount deposited by the petitioner is forfeited and the petitioner is also prohibited to take part in the future auction process.

5. Learned A.G.P. on specific query submits on instruction that when the impugned order was passed, the petitioner was not heard.

6. The impugned order is harsh insofar as it not only forfeits the amount deposited by the petitioner in the legal process of auction but it also prohibits the petitioner from further participating in the auction process by way of blacklisting.

7. Learned counsel for the petitioner shows willingness to make a representation or application to the respondents for either refund of forfeited amount or to pay remaining 75% of the amount. He also

prayed that the petitioner is also willing to participate in the auction process if it is permitted in future.

8. A perusal of paragraph (11) of the affidavit in reply filed on behalf of the respondent nos. 1 to 4 shows that there was no response at all received from any of the bidder when the auction was repeatedly held after impugned order.

9. In view of the fact that the impugned order is passed without hearing the petitioner and he is blacklisted from participating in the auction in future and the auction conducted by the respondents has not resulted in any fresh bids, inspite of carrying out auction thrice, we are inclined to quash and set aside the impugned order. Hence, the following order :-

(a) The impugned order dated 3rd October, 2022 passed by the respondent no.4 is hereby quashed and set aside.

(b) The petitioner is permitted to make an application/

representation to the respondents for refund of forfeited amount and for an opportunity to participate in the fresh auction process. The said application will be decided on its own merits after hearing the petitioner and in accordance with law and without being influenced by any observations made by the Tahsildar in the impugned order.

(c) If the representation of the petitioner is accepted, the petitioner can make a request for adjustment of the amount of the earnest money deposited by the petitioner as and by way of earnest money deposit required to be deposited for any future tender.

(d) Rule is made absolute in the aforesaid terms. No order as to costs.

[M. M. SATHAYE, J.]

[R. D. DHANUKA, J.]