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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9649-2022

Date of Decision: 10.05.2022

Krishna Engineering Works Limited

.....Petitioner

Vs.

Punjab State Industrial Development Corporation Limited and Ors.

....Respondents

**CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH
HON'BLE MRS. JUSTICE MEENAKSHI I.MEHTA**

Present: Mr. S.T.Venkatachala, Advocate
for the petitioner.

Mr. Varun Mittal, Advocate
for the respondents.

AMOL RATTAN SINGH, J. (Oral)

1. By this petition, the petitioner seeks a stay of the impugned auction notice dated 04.04.2022 (Annexure P-8), issued by respondent No.1.

Yesterday, i.e. 09.05.2022, the following order had been passed by this court:-

“Though notice of motion has not been issued in the petition, we have called upon learned counsel for the respondent (PSIDC) to take instructions essentially on the allegations made by learned counsel for the petitioner that the petitioner

company was never given any intimation with regard to auctions taking place, and with no public notice having been issued in respect of the auctions to be conducted.

Adjourned to 10.05.2022.”

2. Today, learned counsel appearing for the respondent (PSIDC) first points to Annexure P-8 filed with the petition itself, which is a communication addressed by the said respondent to the Managing Director of the petitioner-company, informing therein that a notice for e-auction for the sale of land, building and plant & machinery belonging to the company, located at Plot No.B-1, Focal Point, Jalandhar, was published in two newspapers, i.e. “The Tribune” (English) and “Jagbani” (Punjabi) on the said date itself, i.e 04.04.2022; and that the auction would be held from 10.00 AM on 25.04.2022 to 3.00 PM on 28.04.2022.

It has further been stated therein that in case Lot No.I (all assets) located at the aforesaid site were not sold, only then an auction with respect to Lot No.II would be held from 10.00 AM on 06.05.2022 to 3.00 PM on 09.05.2022; and further, as per clause 9 of the e-auction notice, the original promoters/borrowers/guarantors and second charge holders may join sale proceedings on the date and time mentioned, or they may also make their offers or bring other parties to bid at the auction, in response to this advertisement as per the schedule.

3. Learned counsel for the respondent-corporation thereafter has produced in court a copy of what is shown to be a notice issued in “The

Tribune” (Chandigarh Edition) on 04.04.2022, essentially to the aforesaid effect but further describing the properties and the Lots I and II drawn by the respondents.

4. Learned counsel for the respondent PSIDC further submits that as a matter of fact, with this petition having been filed on 04.05.2022 (as is obvious from the first page thereof), at that stage all auction proceedings actually stood concluded and no auction was needed to be held on 06.05.2022 till 09.05.2022, because Lot No.I itself, i.e. the entire estate in question, was purchased by the auction purchaser on 28.04.2022 itself.

Hence, as regards this petition, actually we would see no reason to interfere with the auction in any manner, even though learned counsel for the petitioner has submitted today that there were some very unfortunate tragedies with the Managing Director, his wife and his grand-daughter, they having all passed away in the year 2021.

5. Whereas, to say the very least, that is indeed a terrible tragedy, however, what has to be observed by this court is that the e-auction notice is obviously pursuant to proceedings initiated under Section 29 of the State Financial Corporations Act, 1951, which culminated in an order dated 17.07.2014 and therefore as regards the reason for the auction of property, that stood concluded then itself.

6. Learned counsel for the PSIDC submits that the said proceedings were also subject matter of challenge in CWP No.28693 of 2018 instituted by the petitioner herein, with an order passed by a learned Single Judge of this Court on 03.09.2019 in that case, dismissing that petition and in fact allowing

the prayer made by the 3rd respondent therein, i.e. M/s Kohinoor India Private Limited, Jalandhar. Learned counsel for the said respondent submits that as per his instructions, it was probably the auction purchaser of another property of the petitioner-company; and in fact it is seen from that order that the prayer by the said company (respondent No.3 in that petition) was only to the effect that it may be given liberty to take its remedy qua its own grievance, as per law.

Obviously therefore, the tragedies that have very unfortunately occurred in the family of the Managing Director of the petitioner-company, were well after proceedings initiated under the aforesaid Act actually stood culminated as regards attachment of the property etc.; and hence, in our opinion, the consequential action thereafter, of selling the properties by way of auction to recover the dues of the company to the respondent PSIDC, cannot be challenged as a stand alone action, unless of course any order had been produced before us staying the orders passed under the provisions of the said Act, in the year 2014 or at any time before or thereafter.

7. Yet, it is to be noted that Mr. Kanwaljit Singh, Senior Advocate, has appeared before us today and has submitted that one Manish Batra, Proprietor C.Y.International, New Delhi, was in fact the highest bidder till 4:59 PM on 28.04.2022 and thereafter he came to know, without any other bid seen on the screen at that stage (as contended before us), that the auction actually has been concluded in favour of one M/s Ambika Traders for a sum of Rs.50,000/- above the bid of Rs.7,56,91,760/- given by Manish Batra.

Learned senior counsel further submits that the portal was in fact

closed at 5.00 PM though there is a condition in the auction notice that it would remain open for a period of 10 minutes after the closing time, to enable any person to make a higher bid, and with the petitioner having brought to the notice of the respondent-corporation on 29.04.2022 itself, i.e. the next day, that it was willing to bid even higher to the tune of Rs. 8.5 crores and even higher, if necessary.

He submits that despite that, the bid was confirmed by the respondent on 29.04.2022 itself.

However, all that has been contended by learned senior counsel is on behalf of a person who is not a party before us at all.

8. At this stage, learned counsel for the petitioner submits that the petitioner also would be willing to make a matching offer.

It is however to be noticed that the prayers made in this petition are as follows:-

“(i) A writ in the nature of certiorari/mandamus for staying the impugned Auction Notice dated 04.04.2022 (Annexure P-8) issued by respondent No.1.

(ii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iii) To dispense with the filing of the certified/typed/dark print/single space/ less margin/ typed/ legible/ downloaded copies of the concerned

Annexures.

(iv) To award the cost of writ petition in favour of the petitioner against the respondents.

9. Thus essentially the prayer made is that the auction notice dated 04.04.2022 (Annexure P-8) “be stayed”. Therefore, for the reasons given in paragraphs 2 to 6 of this order (supra), we find no ground to entertain this petition, with the auction proceedings in any case having concluded 6/7 days prior to filing of the petition.

Consequently, making no comment on the contentions raised by learned senior counsel who has appeared today for a party who is not before us, this petition is dismissed.

Naturally, if any person is aggrieved of the manner that the e-auction was conducted and the result thereof, such person would be at liberty to avail of her/his/its remedy as per law.

(AMOL RATTAN SINGH)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

10.05.2022
Sunil Devi

Whether speaking/reasoned : YES
Whether Reportable : NO