IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22683-2022 (O/M)
Date of decision : 14.11.2022

Roopinder Sorabh Tayal .... Petitioner

Versus

The Chief Administrator Haryana Shehri Vikas Pradhikaran (HSVP) Panchkula and another .... Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Tushant Deep Garg, Advocate
for petitioner.

Mr. Lokesh Sinhal, Advocate
for respondents.

HARINDER SINGH SIDHU, J.

The petitioner has assailed the E-mail dated 26.5.2022 (Annexure P-6) received from respondents-HSVP calling upon her to match her bid above the reserve price and deposit the balance within a period of 48 hours. She has further prayed that the respondents be directed not to cancel the plot booked in her name and allot the same to her as she has offered the highest bid for the same.

Respondent-HSVP issued notice for auction of commercial properties in different cities including Panchkula to be held on 11.5.2022 (Annexure P-1). The E-auction was to be conducted on 11.5.2022. The petitioner was interested in purchase of SCO site (measuring 22 x 5.50 meters) in Sector 5, Panchkula . The base price thereof had been fixed at Rs. 3,32,75,000/-. The petitioner deposited an amount of Rs. 16,64,800/- as earnest money for participating in the auction. She was issued Auction ID No. 11680. She was the highest bidder in respect of the said plot/site having offered a bid of

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Rs. 4,73,60,000/-. The site/SCO No. 221, Sector 5, Panchkula was booked in the name of the petitioner. She received an E-mail dated 11.5.2022 (Annexure P-3) calling upon her to make the payment of the due amount. She was required to check for Last Date/Time of Payment after conclusion of e-auction, failing which the EMD already deposited shall be forfeited. Thereafter, she deposited an amount of Rs. 30,72,200/- which alongwith EMD already deposited made 10% of the bid.

She received E-mail dated 26.5.2022 (Annexure P-6) stating that her bid had been found to be below the price fixed for the property. By the said communication, the petitioner was given one more chance to match her bid above the reserve price. If she agreed to give bid of Rs. 5,70,10,400/- then she would have to deposit an amount of Rs. 9,65,040/- within a period of 48 hours.

She has assailed the aforesaid communication. Her case is that the base price of the SCO had been fixed at Rs. 3,32,75,000/-. By the impugned E-mail, the petitioner has been asked to give bid of Rs. 5,70,10,400/- which is 71% above the base price.

It is argued that calling upon the petitioner to make a deposit at the reserve price which is more than 70% above the base price of the SCO in question is wholly arbitrary and illegal.

Mr. Sinhal, Ld. counsel appearing for respondents has placed on record the revised E-Auction Policy dated 20.5.2021. He states that the E-mail issued to the petitioner to match her bid above the reserve price is strictly in accordance with the said auction policy. He further states that the petitioner has no vested right to insist upon the acceptance of her bid which was below the reserve price.

We have gone through the revised E-Auction Policy. The terms and conditions for E-Auction of residential, institutional and commercial

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sites/buildings have been specified in the said E-Auction Policy. The terms 'base price', `reserve price', `successful bidder', `highest bidder', and `competent authority' defined therein are as under :-

> *"A. DEFINITIONS :-*
>
> *1. **Base Price**: The base price of a property put to auction shall be the current Collector rate of that area of that financial year fixed by District Collector for that particular property including the factor of FAR. Bids for e-auction shall start from the base price. However, the base price is not necessarily the reserve price of a property.*
>
> *8. Reserve Price: The reserve price shall be decided by the Committee constituted for the purpose. The reserve price shall remain confidential and shall be used for evaluating the highest bid (for accepting or rejecting a bid).*
>
> *Provided that in case a property is not disposed of in two consecutive e-auctions for the reason that the highest bid (H-1) is below the reserve price, then the reserve price of the said property shall be reduced by 05% and if in the subsequent auctions, the site/plot is not sold, the reserve price will further be reduced by 05% for each failed auction subject to condition that reserve price shall not be reduced below 20% of the originally fixed reserve price.*
>
> *8(a) Successful Bidder: Successful bidder shall be the bidder whose bid has been accepted by the competent authority/the respective committee empowered to take decision.*
>
> *8 (b) Highest Bidder: Highest bidder shall be the one who has given the highest bid either above reserve price or below reserve price.*
>
> *15. The competent authority of HSVP reserves the right to accept or reject any bid or withdraw any or all the properties from e-auction or cancel/postpone the e-auction, without assigning any reason.*
>
> *16. The bidding will start from the Base Price. The reserve price shall remain confidential and shall be used for evaluating the highest bid by the competent authority.*
>
> *29-A. In case the highest bid is quoted above reserve price and the payment of 10% of bid (including already deposited amount of EMD) has been made by the Highest Bidder, he/she will be declared as successful bidder by the competent authority. However, in case the highest quoted bid is below reserve price and the Highest Bidder deposited the 10% amount of the quoted bid (including EMD already deposited), the same will be evaluated by the competent committee. The Competent committee may make a counter offer to the highest bidder as it deems fit in the facts and circumstances of the matter. The highest bidder shall be required to deposit the balance amount i.e. 10% of the*

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> *counter offer minus bid amount within 2 days of making counter offer in order to be declared as successful bidder by the competent committee."*

As defined above the base price of a property shall be the current Collector rate of that area of that financial year fixed by District Collector for that particular property including the factor of FAR. The reserve price is to be decided by the Committee constituted for the purpose. The reserve price shall remain confidential and shall be used for evaluating the highest bid.

There is nothing in the policy to support the contention of the petitioner that the reserve price cannot exceed the price beyond a certain percentage. What is to be the reserve price is entirely for the Committee to decide taking into account relevant factors.

As per Clause 16 of the E-Auction policy, the bidding is to start from the base price. The reserve price shall remain confidential and shall be used for evaluating the highest bid by the Competent Committee. As per Clause 29A, in case, the highest quoted bid is below the reserve price and the highest bidder has deposited 10% of the quoted bid amount including the EMD already deposited, the same will be evaluated by the Competent Committee. The Competent Committee may make a counter offer to the highest bidder. The highest bidder shall be required to deposit the balance amount i.e. 10% of the counter offer minus the bid amount within two days of making the counter offer in order to be declared as a successful bidder by the Competent Committee.

From a perusal of Communication (Annexure P-6), it is clear that bid offered by the petitioner was below the reserve price of Rs. 5,70,10,400/-. By the said communication, she has been given an opportunity to match her bid above the reserve price and deposit the balance

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amount. The communication is in conformity with the terms and conditions of the E-Auction and Clause 29-A. There is no infirmity in the aforesaid communication.

Dismissed.

(HARINDER SINGH SIDHU)
JUDGE

(LALIT BATRA)
JUDGE

14.11.2022
sjks

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes / No

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