IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25244-2022 (O/M)
Date of decision : 23.12.2022

Dr. Praveen Kumar Malik ..... Petitioner

Versus

State of Haryana and others ..... Respondents

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

Present: Mr. Shiv Kumar, Advocate
for petitioner.

Mr. Deepak Sabherwal, Advocate
for respondents No. 2 to 4.

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HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to respondent No. 2-Haryana Shehri Vikas Pradhikaran to allot the petitioner the Clinic Site (Opposite Plot No. 723, Sector 51, Gurugram-II) as mentioned in the advertisement dated 15.2.2022 (Annexure P-1) in respect of which the petitioner was the successful bidder.

Respondent No. 2 had issued an advertisement (Annexure P-1) inviting offers for e-auction of Residential, Commercial Properties in Hisar and Rohtak Zones and Nursing Home, Clinic and Nursery School sites in different zones. This e-auction notice included two Clinic Sites in Gurugram-II. One of them was described as Clinic Site (Near Plot No. 723) and the another as Clinic Site (Opposite Plot No. 723). As per the advertisement (Annexure P-1), auction of these sites was to be held on 15.2.2022.

Thereafter respondent No. 2 issued Public Notice on 15.2.2022 (Annexure P-2) that changes as indicated therein had been made in the

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description of properties in respect of e-auction to be held on 15.2.2022 and 16.2.2022. The two clinic sites aforementioned were also included in this notice. In this Public Notice (Annexure P-2), Name of Urban Estate, Previous Description/Detail, Revised Description/Detail and Remarks in respect of these two sites alongwith Auction ID was as under :-

Auction ID	Name of Urban Estate	Previous Description/Detail	Revised Description/Detail	Remarks
7895	51 Gurugram-II	Clinic Site (Near Plot No. 723) Size = 267.09 Sqm.	Clinic Site (Near Plot No. 723) Size = 237.26 Sqm.	The area has been changed, the cost will be adjusted at the time of fixation of Reserve Price.
7896	51 Gurugram-II	Clinic Site (Opposite Plot No. 723) Size = 267.09 Sqm.	Clinic Site (Opposite Plot No. 723) Size = 307.77 Sqm.	The area has been changed, the cost will be adjusted at the time of fixation of Reserve Price.

The area of Clinic Site (Near Plot No. 723) was changed from 267.09 Sqm. to 237.26 Sqm. and the area of Clinic Site (Opposite Plot No. 723) was changed from 267.09 Sqm. to 307.77 Sqm.

The case of the petitioner is that he applied for allotment of Clinic Site (Opposite Plot No. 723), Sector 51, Gurugram. He was issued Auction ID No. 7896. The reserve price of the said plot was Rs. 88,14,000/-. The petitioner deposited 5% thereof i.e. Rs. 4,41,700/- on 14.2.2022. He was the highest bidder at Rs. 2,06,94,000/- and was allotted the Clinic Site (Opposite Plot No. 723) in Sector 51, Gurugram-II. As required, he deposited 10% of the bid amount minus EMD i.e. Rs. 16,28,700/- on 17.2.2022.

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As per e-auction condition, after acceptance of the bid and verification of the requisite documents, the successful bidder was to be issued Letter of Intent (LOI) by Estate Officer. The allottee was required to deposit 15% of the quoted bid amount within 30 days of the dispatch of LOI. In case of failure to do so, the LOI would stand automatically withdrawn and 10% amount deposited would be forfeited.

The petitioner received LOI dated 17.5.2022 (Annexure P-5). The property allotted to him was described therein as CS5 in Sector 51, Urban Estate, Gurugram-II. The area thereof in square meter was 267.09 and price Rs. 2,06,94,000/-. The petitioner deposited 15% of the bid amount i.e. Rs. 31,04,000/- on 10.6.2022 making the total amount deposited as 25% of the bid amount. This was in compliance with condition of the LOI for deposit of 15% of the bid amount within 30 days of its issue.

The petitioner has raised a grievance that in the LOI, the property measuring 267.09 sqm. allotted to him has been described as CS5, Sector 51, Gurugram-II, whereas the area of the property for which he had actually bid had been stated to be 307.77 sqm as per Public Notice (Annexure P-2). It is further his case that property allotted to him is not the Clinic Site (Opposite Plot No. 723) as described in Auction Notices, but is behind Plots No. 721, 722, 723 and adjacent to Plot No. 720. It does not have a proper path and parking. It is triangular in shape. It is alleged that the petitioner has been defrauded by respondent-HSVP and has been allotted a site for which he had not actually bid. The petitioner submitted requests dated 29.5.2022 and 6.6.2022 (Annexure P-9 and Annexure P-10) but got no response. Aggrieved, he has filed this petition.

It is not possible to agree with the contention of the learned counsel for petitioner.

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As per Advertisement and Public Notice (Annexure P-1 and Annexure P-2), two Clinic Sites were put to auction. One of them has been described as (Near Plot No. 723) and the other has been described as (Opposite Plot No. 723). Both of them are in Sector-51, Gurugram-II.

The petitioner in his communications dated 29.5.2022 and 6.6.2022 (Annexure P-9 and Annexure P-10) which were sent immediately after the issue of LOI had raised a grievance only with regard to the size of the plot. He had stated that as per the public notice the size of the clinic site (Opposite Plot No. 723) Sector 51, Gurugram had been changed to 307.77 Square meters from earlier 267.09 Square meters. But the Letter of Intent issued to him on 17.5.2022 had mentioned the size as only 267.09 Square meters.

The relevant extracts of communication dated 29.5.2022 are reproduced as under :-

> *"Sir,*
> *I, Dr. Praveen Kumar Malik, successfully participated in an e-auction conducted by HSVP on 15/2/2022 for the clinic site (Opposite Plot No. 723) Sector 51, Gurugram with Auction ID 7896.*
> *A public notice was issued by the office of Chief Administrator, HSVP, Panchkula, informing about the change of size of the clinic site (Opposite Plot No. 723) Sector 51, Gurugram to 307.77 Square meters from earlier 267.09 Square meters.*
> *Now, Letter of Intent No. ZO002/E0018/UE/029/LALOT/0000000161 issued to me on 17/5/2022 has mentioned the size as only 267.09 Square meters.*
> *I request you to look into the matter and rectify the disparity by issuing a new letter of intent."*

The relevant extracts of communication dated 6.6.2022 are reproduced as under :-

> *"Subject:- Disparity in size and location of allotted clinic site (Opposite Plot No. 723), Sector 51, Gurugram later named as CS 5, Sector 51, Gurugram.*
> *Sir,*
> *I, Dr. Praveen Kumar Malik, successfully participated in an e-auction conducted by HSVP on 15/2/2022 for the clinic site*

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(Opposite Plot No. 723) Sector 51, Gurugram with Auction ID 7896.

A public notice was issued by the office of Chief Administrator, HSVP, Panchkula, informing about the change of size of the clinic site (Opposite Plot No. 723) Sector 51, Gurugram to 307.77 Square meters from earlier 267.09 Square meters.

Now, Letter of Intent No. ZO002/E0018/UE/029/LALOT/0000000161 issued to me on 17/5/2022 has mentioned the size as only 267.09 Square meters.

I request you to look into the matter and rectify the disparity by issuing a new letter of intent."

It is for the first time on 14.10.2022 that the petitioner sent request/representation in which he raised the issue regarding the site not being the site which was actually auctioned to him. Clearly this appears to be an after thought.

The petitioner has also placed on record a Part Layout Plan of Sector 51, Gurugram. In the said layout plan, two clinic sites are shown adjacent to SCO 723. According to him neither of them could be described as being (Opposite Plot No. 723). According to the petitioner the only site which can be correctly called as (Opposite Plot No. 723) would be a site across the road.

Mr. Sabherwal, Ld. counsel appearing on behalf of respondent-HSVP states no plot/site in the said area has yet been carved out. Only two Clinic sites were auctioned. Both are adjacent to SCO 723. One of them was described as (Near Plot No. 723) and the another was described as (Opposite Plot No. 723).

As regards the area mentioned in the LOI, Mr. Sabherwal states that the area in the LOI has been wrongly mentioned as 267.09 sqm. Infact it should have been 307.77 sqm. He states that an amended LOI indicating the correct area as per the Public Notice (Annexure P-2) i.e. 307.77 sqm. will be issued to the petitioner. The petitioner will be required to pay additional cost

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of 40.68 sqm. i.e. the increased area in proportionate ratio as was mentioned in the remarks column of the Public Notice (Annexure P-2).

Mr. Sabherwal has also placed before us the bid sheets in respect of two Clinic sites.

The site in which the petitioner participated has been given Auction ID No. 7896. The bid sheet indicates that about seven persons participated in the auction. The first bid of Rs. 88,34,000/- was made by Ashok Kumar. Towards the end, the bids were made by Praveen Kumar Malik (petitioner), Meenu Yadav and Ashok Kumar. The petitioner gave the highest bid of Rs. 2,06,94,000/-. Meenu Yadav gave second highest bid at Rs. 2,06,49,000/-. Ashok Kumar was next at Rs. 2,05,14,000/-. The petitioner was declared a successful bidder. His bid was Rs. 45,000/- higher than that of Meenu Yadav.

We have also gone through the bid chart in respect of the other site which was described as Clinic Site (Near Plot No. 723). Its Auction ID No. was 7895. The first bid for that site was made by one Babita Malik at Rs. 88,34,000/-. The bid sheet indicates that five persons bid for the said plot. Krishan Lal Parihar was the highest bidder at Rs.2,00,94,000/-. The next highest bidder was Shri Krishan at Rs. 1,96,44,000/-.

It cannot be accepted that the petitioner or the other bidders were unaware of the site for which they were bidding.

There is another reason why the claim of the petitioner cannot be accepted.

A perusal of the E-Auction Notice (Annexure P-1) reveals that an e- mail address of HSVP at which any query relating to the E-auction could be addressed, was provided. It also contained two Helpline Numbers at which

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calls could be made. At one number calls could be made between 9.00 AM to 5.00 PM and at the other between 8.00 AM to 8.00 PM. It also mentioned the address of the E-portal of the HSVP, where the detailed information of the sites and terms and conditions of E-auction would be available.

If the petitioner had any doubt or wanted any clarity about the sites, he could have obtained the same. The petitioner did not choose to do so.

Thus we find no merit in the petition and the same is dismissed. However, the respondents would be bound by their statement to issue amended LOI indicating the correct area as per the Public Notice (Annexure P-2) i.e. 307.77 sqm. The petitioner in turn will be required to pay additional cost as indicated in the remarks column of the Public Notice (Annexure P-2).

(HARINDER SINGH SIDHU)
JUDGE

(LALIT BATRA)
JUDGE

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Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

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