



Comp.A.No.190 of 2023

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in

C.P.No.57 of 1998

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SENTHILKUMAR RAMAMOORTHY,J

The auction sale in respect of the properties constituting the Max-Chokkampatti Project was conducted on 26.04.2023. All the bidders had submitted bids for amounts equal to or marginally higher than the upset price. Thereafter, except for one bid during the auction process, none of the bidders participated. By taking note of these facts and circumstances, the auction was cancelled. The issue relating to forfeiture of EMD was left open for consideration today. Learned counsel representing some of the bidders submitted that the bid submitted by the respective bidder was in accordance with the terms and conditions of the sale notice. Therefore, they submitted that the EMD is not liable to be forfeited.

2. The auction was cancelled upon noticing that the bids were for amounts equal to or marginally higher than the upset price and the bidders refused to take part in the second stage auction. In order to avert a repeat of this situation in future, the Official Liquidator is directed to include the following clause in the Sale Notice relating to future auctions:



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“Eligible bidders are ordinarily required to participate in the auction sale process, which will commence by using the highest bid as the base price. If the Court forms the opinion that eligible bidders refused or failed to participate in such auction process with a view to subvert the auction process, the EMD shall be liable to be forfeited.”

3. Since such a clause was not included in the Sale Notice for the Max-Chokkampatti Project, the Official Liquidator is directed to refund the EMD to the bidders. As a consequence, Comp.A.No.190 of 2023 is closed.

07.06.2023

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