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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 6th September, 2023*

+ **CO.APP. 14/2023 & CM APPL. 39401/2023, CM APPL. 39402/2023**

S P BAJAJ

..... Appellant

Through: Mr. Jai Sahai Endlaw and Ms. Shambhavi Kala, Advs.

versus

SHAURYA HOUSING LTD. (IN LIQN.) THROUGH
OL AND ORS.

..... Respondents

Through: Ms. Ruchi Sindhwani, Senior Standing Counsel with Ms. Megha Bharara, Adv. for Official Liquidator.
Mr. T. Singhdev, Mr. Abhijit Chakravarty, Mr. Bhanu Gulat and Mr. Paramveer Singh Narang, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The appellant has filed the present appeal impugning a common order dated 10.07.2023 (hereafter '**the impugned order**'), passed by the learned Single Judge in three applications, being Co. Appls. 401/2023, 407/2023 and 481/2023 in Co. Pet. 510/2014.
2. The appellant is essentially aggrieved by the value at which the property of M/s Shaurya Housing Ltd. (hereafter '**company in**



liquidation'), being land admeasuring 11,477 sq. mtrs. bearing khasra number 357 & 358, village Mauja Tehra, Vrindavan (hereafter '**subject property**'), was auctioned.

3. An advertisement for auction of the subject property was issued on 05.05.2023 with a reserve price of ₹7,96,79,187/-. The auction was duly conducted on the said date.

4. One Mr. Robin Agrawal (Respondent No. 3) was declared as the highest bidder, and the Official Liquidator filed an application (Co. Appl. 407/2023) for approving the acceptance of his bid of ₹8,04,75,979/- as the highest bid.

5. There is no dispute that the said auction bidder/ Respondent No. 3 deposited the amounts as required: ₹79,67,918/- being 10% of the reserve price as Earnest Money on 17.05.2023, and a further amount of ₹ 1,24,00,000/- on 24.05.2023. The amounts so paid aggregated to 25% of the bid amount.

6. Prior to the approval of the sale in favour of respondent no.3, by the learned Company Court, another entity, one Ahuja and Anand Buildwell Pvt. Ltd. (hereafter '**AABPL**') approached the learned Company Court, by filing an application, Co. Appl. 401/2023, offering a higher amount of ₹10.05 Crores for purchasing the subject property.

7. AABPL had not participated in the auction, and claimed that it did not do so as it was not aware of the same.

8. The appellant, one of the Ex-Directors of the company in liquidation, also filed an application, being Co. Appl. 481/2023,



seeking cancellation of the auction.

9. Considering that AABPL had offered a substantially higher amount than the successful auction bidder (respondent no.3), the learned Single Judge entertained the said application, but afforded the auction bidder an opportunity to better the said offer.

10. AABPL and the auction bidder (Mr. Robin Agrawal) furnished competing bids and the highest bid of ₹13 Crores, being the improved offer made by the auction bidder, was accepted. The appellant's application Co. Appl. 481/2023 was rejected.

11. Mr. Jai Sahai Endlaw, learned counsel appearing for the appellant, has assailed the impugned order essentially on two grounds. First, he submits that the auction was conducted without sufficient notice as the advertisement was published only in two newspapers, which were not widely circulated in Delhi. Second, he submits that the reserve price preferred for the subject property was below the circle rate and therefore, the auction was flawed. He submitted that if the auction is conducted after wide publicity, it is possible that the subject property would fetch a higher value.

12. Considering that it is the appellant's case that the property has been sold at a value lower than its market price, this Court had afforded the appellant an opportunity to deposit 25% of the highest bid, in order to protect the interest of the creditors of the company in liquidation in the event the appellant's request was considered, and the property was re-auctioned. This was particularly in view of the submissions made by the learned counsel for the Official Liquidator



that the earlier endeavours to sell the subject property had not fetched the value as now offered by the auction purchaser. Therefore, if the auction was cancelled and the subject property was again put to auction, there was a possibility that it would not fetch the value as offered by the auction purchaser.

13. Mr. Jai Sahai Endlaw had sought time to take instructions in this regard. He now states that the appellant is not in a position to make the said deposit.

14. In the given facts, we are unable to accept that the subject property has been sold at an undervalue.

15. The appellant's contention that the auction was not given wide publicity is also unmerited.

16. Admittedly, the sale notice was published in 'Statesman' (English), Mathura Edition as well as 'Dainik Jagran' (Hindi), Mathura Edition, which is where the property is located. There was also sufficient time between the publication of the advertisement and the conduct of auction.

17. We also do not find any merit in the appellant's contention that the auction was flawed as the reserve price has been fixed below the circle rate.

18. First of all, there is no requirement that the reserve price has to be fixed at the circle rate or at a value above the same. The reserve price is required to be fixed based on various factors. Undeniably, the circle rate is one of the most important factors but it is not the sole



factor.

19. In the present case, the reserve price was fixed by the Official Liquidator at a meeting held on 12.02.2020 at its office. The representative of the secured creditor (Canara Bank), was also present in the said meeting. The Official Liquidator had, before it, three valuation reports, the details of which are set out below:

S. No.	Name of the Valuer	Date of Valuation Report	Market Value	Realizable Value
1	Sh. O.P. Aggarwal (empanelled with Canara Bank)	21.05.2018	10,15,82,000/-	9,14,24,000/-
2	M/s Dimension Arch (empanelled with Canara Bank)	18.05.2018	10,47,06,000.00/-	9,42,35,000/-
3.	Dream land Designers Pvt. Ltd. (empanelled with office of OL)	22.11.2018	8,28,29,860/- (Including movable items of Rs. 6,40,765/-)	

20. Based on the aforesaid valuation reports, the Official Liquidator had fixed the reserve price taking the average of these three estimated values. Accordingly, the sale notice was published with the reserve price of ₹8,82,12,000/-.

21. An auction with the aforesaid reserve price was scheduled to be conducted on 03.02.2022, however, no bidder came forward to offer the reserve price. Accordingly, the auction did not fructify. It is in the aforesaid context, that the reserve price was further reduced in the subsequent auction by 10% in terms of the order passed by the learned Single Judge on 03.02.2023 and the appellant did not contest the same



at the material time.

22. It is also material to note that the learned Single Judge had also specified the newspapers in which the advertisement was to be published. This too was not challenged by the appellant at the relevant time.

23. Secondly, the contention that the value of the subject property was fixed below the circle rate of ₹15,49,39,500/-, is also unmerited. The said value has been determined assuming that the circle rate for the subject property is ₹13,500/- per sq. meters. The learned counsel for the respondents referred to the general instructions issued by the office of the Sub Registrar, Mathura-I. The English translation of Paragraph 13 of the said instructions reads as under:

“That in case of sale of land measuring 3000 sq. mtr. or more, 70% of the minimum rates is applicable. Similarly, in case of sale of land measuring 10000 sq. mtr. or more, 60% of the minimum fixed price is applicable.”

24. Thus, in terms of the aforesaid instruction, the declared circle rate was required to be reduced to 60% as the area of the subject property was more than 10,000 sq. meters. Thus, the circle rate is significantly lower than as claimed by the appellant. The learned Single Judge had rejected the appellant's contention regarding the reserve price being less than the circle rate on the ground that the appellant had failed to establish the prevalent circle rate.

25. It is also pointed out that the valuation report submitted by the appellant also reflects a discount of 40% of the circle rate, as relevant,



where the subject property is located.

26. In view of the above, we find no ground to interfere with the impugned order.

27. The appeal is, accordingly, dismissed. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

SEPTEMBER 6, 2023

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