

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10764 of 2024

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Ram Pravesh Yadav S/O Vindeshwari Yadav Resident of Rampur Kharahara,
P.S.-Ekchari, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the chief Secretary, Govt of Bihar, Patna.
2. The Principal Secretary, Excise and prohibition Department, Govt of Bihar, Patna.
3. The Deputy collector Land Reforms., Kahalgoan, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The Excise Superintendent, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh, Adv.

For the Respondent/s : Mr.Rakesh Parbat, Sr. SC 21

Mr.Kumar Samarjeet Singh, AC to SC 21

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 12-09-2024

By filing the instant writ petition, the petitioner has
prayed for the following reliefs :

*“For issuance of an appropriate writ/writs,
order or orders in the nature of mandamus
for directing and commanding the respon-
dents to accept the balance amount of bid
money of Rs. 7,86,000/- as due to illness the
petitioner could not deposit the same but af-*



ter recovery when the petitioner went to deposit the same with demand draft then the authority refused to accept the same as same is time barred and/or pass such other appropriate relief or reliefs for which the petitioner is entitled in the facts and circumstances of the case.”

2. Briefly stated, the facts of the case is that Scorpio vehicle bearing registration no. JH-17Z-4370 belonging to one Raunak Kumar was seized for the alleged recovery of 121.950 liters of India Made Foreign Liquor. On the basis of aforesaid fact, FIR No. 258 of 2022 dated 20.11.2022 was registered in Amdanda P.S. under Section 30(a) of the Bihar Prohibition and Excise Act, 2016. Thereafter, a notice under BTC-4 was issued in favour of vehicle owner Raunak Kumar for depositing 50% penalty of IDV value of the vehicle which comes to Rs. 6,43,714/-, but after verification it was found that no amount was deposited by ex-owner Raunak Kumar in government head. Consequently, after following due procedure respondent issued fresh notification of auction of several vehicles including Scorpio Vehicle bearing registration no. JH-17Z-4370 for auction on 30.09.2023 and 06.10.2023 at 11 am. As per auction notification earnest money of the Scorpio vehicle bearing registration no. JH-17Z-4370 was fixed 1,96,000/- and



after submitting earnest money petitioner participated in auction and declared successful. After declaration as successful bidder, petitioner has been directed to deposit the due amount within two days, but due to illness petitioner could not deposit the same and after recovery petitioner wanted to deposit the bid amount but same was refused by the concerned office as the petitioner did not file the bid amount within the time stipulated. Hence, petitioner has approached this Court.

3. Learned counsel for the petitioner submitted that petitioner is ready to deposit the balance amount but respondents are adamant to refuse to accept the balance amount. Petitioner has reason as to why he could not deposit the balance amount within the given time as he was suffering from illness so he has failed to deposit the balance amount. Petitioner is a *bona fide* bidder and he has already deposited the earnest money, but the concerned authority has forfeited the earnest money and refused to accept balance amount which he is ready to pay belatedly.

4. Per contra, learned counsel for the respondents submitted that petitioner has failed to comply condition no. 3 relating to deposit of entire bid amount and in such circumstances the earnest money deposited by the petitioner was



fortified. The reason of illness assigned by the petitioner behind non-compliance of aforesaid term and condition which is not tenable in the eye of law. Learned counsel for the respondent further submitted that in para 10 of the writ petition petitioner has wrongly stated that he was directed to deposit the balance amount within two days whereas the concerned term and condition clearly says that the amount ought to have been deposited within five days. In light of aforesaid provision, the action of the petitioner is in contravention of the aforesaid condition and the concerned authority has rightly refused to accept balance amount and forfeited the earnest money deposited by the petitioner.

5. From perusal of Annexure-R/C, it transpires that there are several conditions for the auction. In condition no. 3 it has been mentioned that successful bidder has to deposit the auction amount within 5 days otherwise his earnest money would be forfeited and auction will be cancelled. The petitioner has not deposited the balance amount within the time given in Annexure-R/C and in condition no. 3 there is a clear cut stipulation that successful bidder has to deposit the auction amount within 5 days. This condition has not been complied by the petitioner and, therefore, the action of the respondents in



forfeiting the earnest money deposited by the petitioner and
cancelling the auction proceeding relating to the petitioner is
justified and legal .

6. In light of the discussion made above,
petitioner has not made out a case so as to interfere.
Accordingly, C.W.J.C. No. 10764 of 2024 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcv/Amit

AFR/NAFR	AFR
CAV DATE	05.09.2024
Uploading Date	12.09.2024
Transmission Date	

