

IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION
(Commercial Division)

IA No: GA-Com 2 of 2024
AO-Com 4 of 2024
with
AP No. 8 of 2022
Srei Equipment Finance Limited
Versus
Omnitute Services Pvt. Ltd. & Ors.

And

IA No: GA-Com 3 of 2024
AO-Com 4 of 2024
with
AP No. 8 of 2022
Srei Equipment Finance Limited
Versus
Omnitute Services Pvt. Ltd. & Ors.

Before:

The Hon'ble Justice HARISH TANDON

And

The Hon'ble Justice PARTHA SARATHI SEN

Date: 1st October 2024

Appearance:

Mr. Swatarup Banerjee, Advocate

Mr. Sariful Haque, Advocate

Mr. Sourajit Dasgupta, Advocate

Mr. Rajib Mullick, Advocate

Mr. Biswaroop Ghosh, Advocate

for the appellant

Ms. Nilanjana Adhya, Advocate

for the purchaser

The Court: The aforesaid two applications are filed after
disposal of the appeal, seeking for further directions.

The aforesaid two applications are taken up together having filed by the respective parties raising the grievance in relation to the full and final payment of the bid amount.

According to the appellant, there is a shortfall of Rs.1,00,000/- on account of interest for the delayed payment whereas the successful bidder contends that the entire amount has been paid which would be reflected from the statement of accounts annexed to the application and the confirmation thereof by the Division Bench in the order dated 19th June 2024. The dispute hinges upon a payment of Rs.1,00,000/- on account of interest for delayed payment. Though by an order dated 10th June 2024 the Division Bench directed the successful bidder to pay a sum of Rs.1,00,000/- towards interest for delayed payment, the details of the payment appended to an application filed by the successful bidder does not reflect the particular amount to have been paid under the said head.

However, we find that the total amount which has been paid is shown in detail in a subsequent order dated 19th June 2024 passed by the coordinate Bench. It is recorded that the entire amount has been paid in terms of the order dated 10th June 2024 which obviously contained the payment of Rs.1,00,000/- towards the interest for delayed payment in the following:

“The sums directed to be paid by our order dated 10th June 2024 have been duly paid by the purchaser and received by the appellant as confirmed by their respective counsel.”

The moment the coordinate Bench in a subsequent order recorded the full payment having made by the successful bidder duly received by the appellant, it is not open to either of the litigants to controvert the same. The facts or the submissions recorded by the Court in the order is sacrosanct and cannot be contradicted even by way of affidavits. The Court shall not permit the litigants to take a stand that despite such recording having made, in fact, the full payment has not been made (see *State of Maharashtra vs. Ramdas Srinivas Nayak* reported in AIR 1982 SC 1249).

The total bid amount was admittedly Rs.90,50,000/- and the successful bidder was also required to pay the statutory taxes or the cess applicable thereupon. The moment the Court directed certain payments to be made beyond the statutory impositions, it is obligatory on the part of the litigant to pay the same.

According to the appellant, the total amount required to be paid by the successful bidder on calculation comes to Rs.1,11,46,767/-, whereas the successful bidder in the details of the payment indicated that a sum of Rs.1,11,29,000/- has already been paid and a paltry sum of Rs.17,767/- is to be paid.

Considering the details of the amount we do not find any justification on the part of the appellant to claim a sum of Rs.1,00,000/-. The application filed by the successful bidder for issuance of the necessary documents reflected in paragraph 24 is

concerned, the appellant is directed to immediately issue the relevant documents pertaining to sub-clause (a) and (b). The appellant is directed to issue a fresh invoice to the successful bidder.

It is submitted by the appellant that the nature of the vehicle involved in the said auction does not require any registration and therefore, there is no question of issuance of blue book. In the event the successful bidder finds any difficulty in using, plying or utilising the oil hydraulic rig in absence of any blue book or documents, the appellant shall immediately issue relevant documents as and when informed by the successful bidder. So far as the sale certificate is concerned, the same shall be issued by the Joint Receivers.

The entire exercise as aforesaid shall be done within two weeks from the date of communication of this order.

The applications are accordingly disposed of.

(HARISH TANDON, J.)

(PARTHA SARATHI SEN, J.)