

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10004 OF 2024

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AYUB
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Bhagwati Signature LLP ... Petitioner

V/s.

The City & Industrial Development
Corporation of Maharashtra Ltd.

& Ors.

... Respondents

Mr. Atul Rajadhyaksh, Senior Advocate a/w Ms. Arun Panickar with Mr. Rajeev R. Sharma and Mr. Vinay Nair i/by M/s. Juris Salvation for Petitioner.

Mr. Chetan Kapadia a/w Ms. Vidisha Rohiva with Mr. Rahul Sinha with Mr. Soham Bhalerao i/by DSK Legal for Respondent Nos.1 to 3.

Mr. P. P. Kakade, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader with Mrs. G. R. Raghuwanshi, AGP for Respondent No.4.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : JULY 23, 2024

P.C.:

1. Issue notice to respondent Nos.1 to 3, returnable on **9th September 2024**.

2. Mr. Kapadia, learned senior counsel has put in appearance on behalf of respondent Nos.1 to 3 and waives service of notice. Mr. Kakade, learned Government Pleader puts in appearance on behalf of State-respondent No.4 and waives service.

3. As prayed by the learned counsel representing respondent Nos.1 to 3, three weeks' time is granted to file affidavit-in-reply; two weeks' time thereafter shall be available to the learned counsel for the petitioner to file rejoinder affidavit, if any.

4. List the petition on **9th September 2024.**

5. Learned senior advocate representing the petitioner has prayed for grant of interim relief. He has stated that the subject plot No.25 was advertised for being auctioned for settlement of lease rights in the year 2021 and in the said auction, the petitioner had participated, where he offered the highest bid of Rs.1,51,812/- per square meters as against the base price of Rs.47,273/-. The result of the auction was declared on 14th October 2021, where the petitioner was the highest bidder. However, the petitioner's bid was not accepted; rather a letter was issued by the respondent-Corporation wherein it was stated that an adjacent plot had fetched the highest bid amount of Rs.2,12,589/- per square meter and accordingly the petitioner, if he so desired, might submit his consent within 15 days to accept the plot at the rate of Rs.2,12,589/- per square meter. The petitioner challenged the said letter by instituting Writ Petition (L) No.369 of 2022, in which a Division Bench of this Court, passed an order dated 7th January 2022 considering the statement made on behalf of the Managing Director of the respondent-Corporation that he shall consider representation of the petitioner and after affording them opportunity of hearing, will pass a reasoned order on the merits of the case.

6. Pursuant to the said order dated 7th January 2022, the representation made by the petitioner was rejected by means of an order dated 23rd March 2022. The said order dated 23rd March 2022 was challenged by the petitioner by amending the Writ Petition No.1367 of 2022 which was finally disposed of by a Co-ordinate Bench of this Court by means of an order dated 16th February 2023. Certain directions were issued by the order dated 16th February 2023. Paragraph 5 of the said order is quoted herein below:

"5. Considering the equities, we pass the following order:

(i) The respondents may intimate the petitioner about the rates quoted by the independent expert agency.

(ii) The petitioner may make a proposal with the respondents with regard to its readiness and willingness to raise its bid to match the rate recommended by the independent expert agency.

(iii) The petitioner may give consent to the rates of the independent expert agency within 7 (seven) days of receipt of the intimation.

(iv) However, this order shall not be construed as deciding the list between the parties by us or accepting/not accepting the rates. It will be for the respondents to accept and/or reject the bid of the petitioner."

7. Our attention has been drawn by the learned counsel for the petitioner to a letter dated 21st February 2023 which has been annexed at Exhibit 'P' to the petition, whereby the petitioner requested the Corporation to share with it the

independent Expert Agency rates, in the light of the order dated 16th February, 2023 passed by this Court. However, there is nothing on record to show; neither the learned counsel for the respondent Nos.1 to 3 could satisfy the Court that the offer required to be made by the respondent-Corporation in terms of paragraph 5 (i) of the order dated 16th February 2023 was ever given by the Corporation to the petitioner.

8. As per the directions contained in paragraph 5 of the order dated 16th February 2023, this Court directed the respondent-Corporation to intimate the petitioner about the rates recommended by the independent expert agency, whereupon the petitioner was required to make a proposal to the respondent-Corporation in respect of its readiness and willingness to raise its bid to match the rate quoted by the independent expert agency. The Court, further directed that the petitioner may give consent to the rates of the independent expert agency within 7 days of receipt of the intimation from the Corporation. Accordingly, it is only once the rates recommended by the independent expert agency was communicated by the Corporation that the petitioner could have exercised its option to express its readiness. The petitioner was, thus, required to make its proposal expressing its readiness and willingness to raise its bid to match the rate quoted by the expert agency, however, in the instant case, the respondent-Corporation appears to have failed to intimate the petitioner the rates recommended by the independent expert agency as was directed by this Court in its order dated 16th February 2023.

9. *Prima facie* we, thus, find that the order dated 16th February 2023 passed by the Court still remains non-complied at the end of the respondent-Corporation.

10. In the meantime, a fresh tender notice has been issued on 8th July 2024 for auctioning the plots, including the subject plot No.25. We, thus, find, *prima facie*, that unless the order dated 16th February 2023 of this Court was complied with, it was not open to the respondent-Corporation to have re-advertised the subject plot.

11. We, thus, direct that till further orders of this Court, plot No.25, as advertised on 8th July 2024, shall not be auctioned.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)