

2024:PHHC:055977-DB

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.8865 of 2024
Date of decision:22.04.2024.**

Kalpana Yadav

....Petitioner

Versus

Haryana Shehri Vikas Pradhikaran and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Meenakshi Sharma, Advocate
for the petitioner.

Mr. Deepak Sabherwal, Advocate
for the respondents.

VIKRAM AGGARWAL, J.

1. The petitioner prays for the issuance of a writ of *mandamus*, commanding the respondents to issue letter of intent to her, being a successful bidder in the auction held on 30.04 2022.

2. The case set up by the petitioner is that in April 2022, the respondent i.e. Haryana Shehri Vikas Pradhikaran (for short 'HSVP') sought to make allotments of residential, commercial and institutional properties in all developed urban estates in the State of Haryana by way of auction. The registration amount and earnest money amounting to ₹3,53,200/- was deposited by the petitioner on 29.04.2022. Before the start of the auction the base price of the shop in question was declared to be ₹70,43,400/-.The petitioner got herself registered for participating in the auction process qua shop No.143, Sector-4, Rewari (hereinafter referred to as the 'disputed shop').

(i) The auction took place on 30.04.2022 in which the petitioner was declared as the highest bidder having given the highest bid of ₹97,13,400/-. Vide e-mail dated 30.04.2022 (P-3) the petitioner was informed about her being the highest bidder (H-1) and she was called upon to deposit the remaining payment before the expiry of the stipulated period.

(ii) The balance of the 10% amounting to ₹6,19,140/- (P-5) was deposited on 30.04.2022 and the e-mail dated 30.04.2022 was sent by the HSVP to the petitioner in this regard (P-4).

(iii) On 17.05.2022, a counter offer was given to the petitioner by HSVP (P-5) to purchase the shop in question for a sum of ₹1,47,08,400/-. However, the said counter offer was rejected by the petitioner on 17.05.2022 itself as the petitioner had given the highest bid which was more than the base price and the counter offer was much higher than the base price.

(iv) On 13.07.2022, the petitioner submitted an application through email (P-6) calling upon the HSVP to refund the sum of ₹97,13,400/- deposited by her or to issue the letter of intent to her at the bid amount.

(v) Thereafter, the petitioner kept on pursuing the matter with the respondents. After no response was received, the petitioner issued legal notice dated 07.06.2023 (P-7). Since no response was received to the legal notice as well, the present writ petition was instituted.

3. We have heard learned counsel for the petitioner as also learned counsel for the respondents who is present on advance copy having been served.

4. Learned counsel for the petitioner submits that the action of the respondents in not disclosing the reserve price and thereafter giving a counter offer of an amount which was much beyond the highest bid given by the petitioner is illegal and arbitrary. Learned counsel has submits that as against the base price of ₹70,43,400/-, the petitioner had given a bid of ₹97,13,400/- and the counter offer given by the respondents was to pay a sum of ₹1,47,08,400/- as the total sale price of the shop in question. Learned counsel submitted that such a procedure is unknown to law and the only result is denial of the lawful rights of applicants in an illegal and arbitrary manner.

5. Sh. Deepak Sabherwal, learned counsel representing the respondents on the other hand has drawn the attention of the Court to the communication dated 13.07.2022 (P-6) sent by the petitioner by e-mail

requesting for refund of the amount deposited by her. Learned counsel submits that once the petitioner herself had made a request for refund of the amount deposited by her, she cannot be permitted to turn around and now contend that she deserves to be allotted the shop in question at the bid amount.

6. We have considered the submissions made by learned counsel for the parties.

7. It is not in dispute that the petitioner had deposited a sum of ₹3,53,200/- on 29.04.2022 and that before the start of the auction, the base price was declared to be ₹70,43,400/-. It is also not in dispute that the petitioner was declared as the highest bidder, having given a bid of ₹97,13,400/-. The balance amount of ₹6,19,140/- was also deposited by the petitioner on 30.04.2022. However, as has been noticed, the counter offer of ₹14708400/- given on 17.05.2022 was rejected by the petitioner.

8. First of all, the policy (Annexure P-1) duly defines the 'base price' and the 'reserve price' as under:-

A "DEFINITIONS:-

1 Base Price: The base price of a property put to auction shall be the current Collector rate of that area of that financial year fixed by District Collector for that particular property including the factor of FAR. Bids for e-auction shall start from the base price. However, the base price is not necessarily the reserve price of a property.

8. Reserve Price: The reserve price shall be decided by the Committee constituted for the purpose. The reserve price shall remain confidential and shall be used for evaluating the highest bid (for accepting or rejecting a bid).

Provided that in case a property is not disposed of in two consecutive e-auctions for the reason that the highest bid (H-1) is below the reserve price, then the reserve price of the said property shall be reduced by 05% and if in the subsequent auctions, the site/plot is not sold, the reserve price will further be reduced by 05% for each failed auction subject to condition that reserve price shall not be reduced below 20% of the originally fixed reserve price.”

The definitions show that the base price would be the current collector rate of that area and the bids would start from the base price. The definition of base price itself clearly mentions that the base price would not necessarily be the reserve price. The definition of reserve price provides that it would be decided by the Committee and would remain confidential. It would be used for evaluating the highest bid i.e. for accepting or rejecting the same.

9. Thereafter, Clause 16 reads as under:-

“16. The bidding will start from the Base price. The reserve price shall remain confidential and shall be used for evaluating the highest bid by the competent authority.”

The above clause also provides that the bidding would start from the base price and the reserve price would remain confidential and would be used for evaluating the highest bid.

Clauses 29-A and 30 lay down as under:-

29-A: In case the highest bid is quoted above reserve price and the payment of 10% of bid (including already deposited amount of EMD) has been made by the Highest Bidder, he/she will be declared as successful bidder by the competent authority. However, in case the highest quoted bid is below reserve price and the

Highest Bidder deposited the 10% amount of the quoted bid (including EMD already deposited), the same will be evaluated by the competent committee. The competent committee may make a counter offer to the highest bidder as it deems fit in the facts and circumstances of the matter. The highest bidder shall be required to deposit the balance amount i.e. 10% of the counter offer minus bid amount within 2 days of making counter offer in order to be declared as successful bidder by the competent committee.

30: After acceptance of the bid and verification of requisite documents, the successful bidder will be issued Letter of Intent (LOI) by the Estate Officer concerned. The LOI will be sent through registered post and through email at the registered address and email id of the successful bidder. All the payment schedule of the bid amount is linked with the date and dispatch of LOI through email. HSVP will not be responsible if LOI is not received by the successful bidder due to change in his correspondence address or email id. It will be in the interest of such bidder to get his correspondence address or email id, if any, updated from time to time. The allottee will be further required to deposit another 15% of the quoted bid amount within 30 days from the date of dispatch of LOI. In case of failure to deposit the said amount within the above specified period, the LOI shall stand automatically withdrawn without any further notice in this behalf and the 10% amount deposited shall stand forfeited to the HSVP against which successful bidder shall have no claim for damages.”

10. A perusal of the aforesaid Clauses shows that everything was within the knowledge of the petitioner and thereafter the petitioner applied

for participating in the auction. Once the petitioner had participated in the auction, knowing fully well the terms and conditions, the petitioner cannot be permitted to now turn around and say that the Clauses were unfair. Even otherwise, no challenge has been laid to the policy or to any of its Clauses.

11. Not only this, it was the petitioner herself who, vide communication dated 13.07.2022 (Annexure P-6), while expressing resentment against the counter offer, the reserve price etc. sought refund of Rs.9,72,340/- deposited by her though she also stated in the same breath that the shop in question be allotted to her at the bid price.

12. It was stated by learned counsel for the respondents during the course of arguments and admitted by learned counsel for the petitioner that the petitioner has duly been refunded the amount deposited by her on 24.08.2022. Once the petitioner herself sought refund of the amount deposited by her and her request was accepted, the petitioner would not be justified in thereafter again raking up the claim that too after almost two years of the request made for refund of the amount deposited by her.

In view of the reasons aforementioned, we find the writ petition to be completely devoid of merit and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

April 22nd, 2024
Rekha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No