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

% ***Date of Decision: 5th December, 2024***

+ **W.P.(C) 2398/2024 & CM APPL. 9909/2024 & CM APPL. 67793/2024**

ABHISHEK MONGA

.....Petitioner

Through: Mr. Hemant Kumar and Mr. Abhishek Monga, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Ms. Kritika Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The respondent Authority issued a tender document for e-auction for Industrial properties on 'as is where is basis.'
2. The broad terms and conditions for the bidders were described exhaustively in the tender document.
3. Chapter III of the *Tender Document* contained *General Terms and Conditions* of e-auction and *inter-alia* provided that if the payment, in terms of the demand letter, was not deposited within the stipulated period, the bid would stand automatically cancelled, without any further notice. It was also mentioned that no extension of time would be granted for payment of 75% of the bid amount for a period after 270 days from the date of issuance of demand-cum-allotment letter and the relevant clause of such Tender Document reads as under:-

"9. The demand-cum-allotment letter would be sent to the successful bidder immediately after the bid is accepted by the competent



Authority. The highest bidder is required to make payment of balance/75% bid amount, as demanded vide said demand letter referred to above, within 90 days from date of issuance of demand letter (without interest)/within 270 days from the date of issuance of demand letter (subject to payment of interest on the balance amount @ 10.00% p.a. during the extended period) by RTGS/Online Payment through Net Banking/Credit Card/Debit Card falling which the bid will automatically stand cancelled without any further notice. No extension of time will be granted for payment of 75% of bid amount for period after 270 days from the date of issuance of demand-cum-allotment letter.”

(emphasis supplied)

4. The petitioner participated in the above said e-auction process and was declared successful for Industrial plot at A-43, Keshopur Industrial Area, New Delhi. His bid of Rs. 1,93,94,173/-, being the highest one, was accepted by the respondent. A due communication in this regard was also sent to him and *Letter of Intent (LOI)* was, accordingly, issued to him on 15th November, 2021.

5. Further, as per the demand-cum-allotment letter dated 06.12.2021, it was categorically mentioned that the amount payable along with the interest, if any, is to be done within the stipulated time frame as provided under the table in such letter. It also bears a specific note which reads as under:-

“3. No extension of time shall be granted for payment of demanded amount for period beyond 270 days from date of issuance of demand cum allotment letter under any circumstances (Date of issuance is included in 270 days granted). In case the payment of balance premium along with interest (If any) is not received within the stipulated period as indicated above, the bid shall automatically stand cancelled and the entire EMD (25% of premium) shall automatically stand forfeited without any notice. In that case, DDA shall be at liberty to re-auction the plot.”

6. The calculation of the balance premium amount payable by the petitioner was also done by the Authority and was duly communicated to the petitioner on 6th December, 2021.



7. Admittedly, the 25% of the bid amount was deposited by the petitioner within the stipulated period.
8. The balance amount of 75% was to be deposited by him by 5th March 2022 (without interest) and by 1st September, 2022 (with the stipulated interest).
9. Before delving further with the averments made in the present petition, it would also be worthwhile to highlight that the petitioner had earlier also filed a writ petition which was registered as W.P. (C) 14060/2022. In the above said writ petition, the petitioner herein sought direction to permit him *an extension of a period of 3 months in order to pay the outstanding amount of Rs.1,52,73,015.87/-*.
10. When the above said writ petition was pending adjudication, in order to find out whether the matter could be mutually resolved or not, the petitioner was directed to appear before Deputy Director, Department of Industries & Commerce on 6th April, 2023 and Deputy Director was directed to consider the relief sought by the petitioner and to pass a *speaking order* within a period of two weeks.
11. There is no dispute that the concerned Deputy Director considered the above said matter and passed a speaking order on 25th April, 2023 and came to the conclusion that the request of the petitioner could not be acceded to, since it would tantamount to go beyond the terms and conditions laid down in the tender document, while also observing that the petitioner had failed to comply with the terms of the tender document. Therefore, no relief was granted to the petitioner.
12. Eventually, in view of the above said speaking order, learned counsel for the petitioner, admitted that there was nothing left for further adjudication



in the above said writ petition and sought permission to withdraw the same with liberty to challenge the above said order dated 25th April, 2022.

13. It is in the above said background that the present writ petition has been filed seeking to set aside the above said speaking order and also a *consequent direction to respondent Authority to permit him to pay the outstanding amount within a period of 6 months*.

14. It is noteworthy that in the earlier writ petition, the petitioner sought a period of three months to make the remaining payment. Whereas, in the present writ petition, the petitioner has now requested for six months to do the same. This change in the requested time-frame rather indicates that the petitioner had no sufficient means to make the payment either at the time of filing the earlier writ petition or at the time of filing the present petition.

15. Learned counsel for the petitioner during course of the arguments, very fairly, admitted that the petitioner was, all along, aware about the above said terms and conditions. His only contention is that it was on account of unfortunate demise of his father-in-law, in the interregnum, that the petitioner was not able to deposit the balance 75% of the amount with Delhi Development Authority and, therefore, in such a peculiar situation, more so, when the above said plot had not been re-auctioned, there was no reason to have denied the extension to the petitioner.

16. According to petitioner, his father-in-law expired on 17th March, 2022 and since he remained admitted for critical care, he had to make expenditure towards his treatment, which contributed to the delay in question.

17. Though, this Court can understand that the unfortunate death of his father-in-law would have taken a heavy toll on him but, nonetheless, he still had a period of 5 to 6 months with him after the demise of his father-in-law to



do the needful.

18. The petitioner has placed on record copies of e-mails which he had sent to DDA wherein he also claimed that due to extreme emergency in his family, on account of death, he was unable to pay the balance amount within the stipulated time.

19. The above said e-mail was responded by DDA by asking them to schedule an appointment through *Citizen Center Platform*. The last communication sent by the petitioner to DDA on 30th August, 2022 reads as under:-

“Mam/Sir

Further to my mails

The total amount comes to be Rs.1.5 CR.(approx), out of which we are ready to pay Rs. 1 Cr. immediately we are requesting time of 2-3 months for the balance payment of Rs. 50 Lakhs with the appropriate interest .

Kindly let us know about it

Regards

Abishek”

20. Obviously, the outer deadline of 01.09.2022 was yet not over and it seems that the petitioner was not able to arrange the funds and, therefore, sought extension of time of around two three months.

21. The terms and conditions with respect to the payment are very clearly laid down not only in the tender document but also in the demand-cum-allotment letter.

22. According to petitioner, in order to meet medical expenses towards the treatment of his father-in-law, he was in no position to make the remaining deposit. Fact remains that no details in this regard have been provided in the present writ petition and, therefore, such contention does not click at all.

23. Moreover, as already noticed above, even after the death of the



father-in-law of the petitioner, the petitioner had around five months with him to arrange and make the payment and it seems that it was because of the fact that he was short of funds, he rather chose to send e-mails to the Authority for extension of time.

24. The terms of the tender document are amply clear and it was specifically mentioned in the tender document itself that no request for extension shall be entertained under any circumstance. Despite being mindful and conscious of the above said specific condition, the petitioner chose to participate in the tender process and now he cannot be permitted to raise a grievance that some exception or some provision for extension should have been carved out for him, particularly when no compelling reason as such has been demonstrated by him.

25. Moreover, the parties were bound by the contractual obligations set forth in the tender document and demand-cum-allotment letter and it was incumbent upon them to adhere to the terms and conditions therein. The petitioner, however, failed to comply with these obligations and now cannot seek any modification and alteration of such terms consequent to his own inaction.

26. Evidently, the petitioner's explanation for the delay in making the payment, citing the ill health of his father-in-law, has not been substantiated in any manner and rather, since he was short of funds, he sought extension of time, which request was, even otherwise, liable to be rejected being in contravention of the explicit terms and conditions set forth in the tender document and the demand-cum-allotment letter.

27. In view of the above, this Court does not find any merit and substance in the present writ petition and same is, accordingly, dismissed.



28. Needless to say, if the petitioner is, desirous of filing any suit seeking refund, the observations made herein above, would not come in his way.

(MANOJ JAIN)
JUDGE

DECEMBER 5, 2024/ss