
(2012) 06 JH CK 0002

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1495 of 2006

Krishna Murari Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-06-2012

Acts Referred:

Citation : (2012) 4 JCR 563 : (2012) 4 JLJR 13

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Arun Kumar, for the Appellant;

Final Decision : Allowed

Judgement

Aparesh Kumar Singh

1. Heard learned counsel for the parties. This writ petition has been preferred for direction upon the respondent no. 3 to forthwith refund a sum of Rs. 2,21,000/- alongwith interest to the petitioner, who was settled with a Municipal Tank in auction by respondent no. 3, which was for the period of 2002-03, 2003-04 & 2004-05 @ Rs. 3,31,000/- for one year.

2. It has been submitted that the auction settlement of the said Tank took place by open auction held on 16.03.2002 in favour of one Anil Kumar Soni, which was challenged in W.P. (C) No. 2435 of 2002 and by judgment dated 13.08.2002, the said settlement of Tank in favour of the Anil Kumar Soni was quashed and the matter was remanded back for re-auction. The aforesaid judgment dated 13.08.2002 was challenged in L.P.A. No. 448 of 2002, which was dismissed on 10.10.2002 in view of the fact that re-auction had already been held on 25.09.2002 in which the present petitioner was found to be highest bidder to the tune of Rs. 3,31,000/- per year for the settlement of the Tank. Thereafter, vide letter no. 536 dated 05.11.2002, the petitioner was directed to deposit a sum of Rs. 3,31,000/-, which was accordingly complied with on 26.11.2002 and thereafter, petitioner was handed over the Tank and started the work from

04.12.2002. It is a case of the petitioner that he deposited the bid amount of Rs. 3,31,000/- for each financial year, however, he was allowed to work only for 2 years and 4 months from 04.12.2002 as the petitioner was allotted the settlement of Tank on re-auction in November, 2002 and the respondents were not justified in not refunding the proportionate amount of bid money deposited for the financial year 2002-2003, although the petitioner had not worked upon the said Tank for the entire Financial Year.

3. The respondents have appeared and filed their counter affidavits in which they have stated that the work order was issued to the petitioner on 05.11.2002 for the financial year of 2002-03. However, it has been stated that since the petitioner did not object to the said deposit of Rs. 3,31,000/- at the relevant point of time, respondents have accepted that because of ensuing litigation in the first auction for the settlement of the Tank which took place in November, 2002, the petitioner did not have any objection of the payment of the entire sum for the relevant financial year 2002-03.

4. From the aforesaid facts, it is apparent that the settlement of Tank was to be for the period of three Financial Years for which the auction was held in September, 2002 which fetched the highest bid of Rs. 3,31,000/- for per year by the petitioner himself. He was therefore successful in the bid for settlement of Tank for 3 Financial years. The petitioner has not been able to work upon the Tank in question from 1st April, 2002 because he was allowed to deposit the bid amount after re-auction only on 05.11.2002. Therefore, the petitioner was not able to get any return out of the said Tank for the aforesaid period on account of no fault of the petitioners. The settlement of tank etc. are done with the successful bidder upon quotation of maximum bid amount by the bidders for getting the return over the said settlement of Tank Ghat etc. after auction for the period for which it is auctioned. The respondents-authorities are also legally entitled to realize the settlement amount for the period for which settlement has been made based on the aforesaid principle. In this case it is apparent from the admitted fact that the petitioner was not able to work on the tank in question for the period of 1st April, 2002 till 5th September, 2002 for no fault of his and also on account of the fact that the first auction was quashed. The Tank was settled on re-auction in September, 2002 for which the petitioner was directed to deposit the highest bid amount being the successful bidder for which 05.11.2002 as already stated above. The petitioner therefore, was able to work on the said Tank for the relevant Financial Year only after 05.11.2002 till the end of the Financial Year 2002-03. The action of the respondent in withholding amount of settlement for the Financial Year 2002-2003 for the aforesaid period i.e. from 01.04.2002 to 05.11.2002 cannot be sustained in law. The petitioner is justified in seeking refund of the proportionate amount of settlement money for the said period 01.04.2002 to 05.11.2002 from the respondents.

5. Accordingly, this writ petition is allowed and respondents are directed to refund the proportionate bid amount of the settlement of Tank from 1st April,

2002 till 5th November, 2002 when the work order was issued to him. The respondents shall make the refund of the proportionate amount of settlement of Tank within a period of two months from the date of the receipt/production of a copy of this order alongwith his representation. This writ petition is accordingly allowed in the aforesaid terms.