
(1999) 07 AHC CK 0082
In the Allahabad High Court
Case No : Writ Petition No. 248 (M/B) of 1999

Nadeem Ashraf

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 07 AHC CK 0082

Hon'ble Judges : D.K.Trivedi, J and U.K.Dhaon, J

Final Decision : Dismissed

Judgement

U.K. Dhaon, J.—By means of this writ petition, petitioner has challenged the auction proceedings scheduled to be held in pursuance of the Notification dated 13.1.1999, as contained in Annexure No. 1 to the writ petition. Petitioner further prays for several other reliefs but according to him since other reliefs have become infructuous, he restricts himself only to first relief.

2. Petitioner was granted dealership licence for supply of petrol/diesel by the opposite parties. It appears that some public interest litigation started before Delhi High Court and the Delhi High Court after hearing the parties cancelled the licence of the petitioner and directed the opposite parties to auction the dealership of petrol/diesel outlet. In compliance of the order passed by the Delhi High Court, the opposite parties started auction proceedings for the auction of dealership, as mentioned above. Petitioner has filed this writ petition challenging the auction on the ground that the opposite parties are going to auction dealership without fixing the valuation of the superstructure alleged to be raised by the petitioner. Petitioner has also stated that the valuation of super structure is about Rs. 9, 23, 400/ whereas the opposite parties have valued the petitioner's super structure to the extent of Rs. 1 lac which is entry barrier. According to the opposite parties, the land on which petrol/diesai outlet exists, belongs to someone else and petitioner is only a lessee of the land. It is also alleged by the opposite parties that the super structure also belongs to the

landowner and not to the petitioner. As such, they fixed Rs. 1 lac as entry barrier of the auction and as the land and super structure does not belong to the petitioner, therefore, no valuation is fixed. On the other hand; petitioner's case is that after taking the land he has invested a huge amount and thereafter submitted a valuation report of the Valuer, as contained in Annexure6 to the writ petition.

3. In view of the aforesaid facts, it is evident that there is a dispute of fact between the parties as to whether petitioner invested something or not. There is also dispute as to whether superstructure etc. belongs to the petitioner or the land owner who is not a party in this writ petition. The question of fixing of valuation and the question of ownership of the superstructure etc. cannot be decided here in this Court. In any case, the fact remains that the auction was directed to be held by the orders of Delhi High Court and, therefore, in our opinion, the same cannot be stayed. So far valuation of the properties is concerned, the same can be fixed by the opposite parties and, therefore, it will be proper for the petitioner to approach the opposite parties who, it is expected, will decide the same in accordance with the directions given by the Delhi High Court. Apart from this, if there is any further dispute then it will be proper for the petitioner to approach Delhi High Court or the apex court. There is serious dispute of the fact and the same cannot be decided here.

4. Writ Petition is, therefore, misconceived and is hereby dismissed. The interim order granted earlier stands discharged.

5. No order as to costs.