
(2007) 05 MP CK 0023
In the Madhya Pradesh High Court

R.R. Companies

APPELLANT

Vs

Indore Development Authority

RESPONDENT

Date of Decision : 18-05-2007

Acts Referred:

Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 — Section 2

Citation : (2007) 4 MPHT 284 : (2007) 4 MPLJ 607

Hon'ble Judges : Shahi Kant Kulshreshtha, J; J.K. Maheshwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.K. Kulshreshtha, J.

By this appeal u/s 2 of the M.P. Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, the appellant assails the order dated 20-4-2007, passed by the learned Single Judge in Writ Petition No. 2212/2007 by which, against the non-acceptance of the highest tender for sale of the plot in question, the petition has been dismissed.

Learned Counsel for the appellant submits that the Authority has acted whimsically and capriciously in declining to accept the highest bid, almost twice the amount of the minimum price fixed for the plot, and against the normal practice of the Indore Development Authority of accepting the highest bid if it is above the upset price. He has further submitted that non-acceptance of the bid in question is in violation of the provisions of Rule 18 of the M.P. Nagar Tatha Gram Nivesh Vikasit Bhoomiyo, Griho, Bhavano Tatha Anya Sanrachanao Ka Vyayan Niyam, 1975 (hereinafter referred to as "the Rules of 1975"). Reliance has also been placed on the decision of Division Bench of this Court in Mangal Amusement Park Pvt. Ltd. v. State of M.P. and Ors. 1994 JLJ 571, to the effect that notwithstanding that the condition of the tender (condition No. 3), empowers the Authority to accept or reject any or all tender applications, it is imperative in such cases to give cogent reasons so that the rejection can be

decided on the anvil of arbitrariness.

The case of the appellant before the learned Single Judge was that though the appellant had offered Rs. 8,255/- per square metre for plot admeasuring 342 Sq. M. as against the upset price of Rs. 4,500/- and this bid was also recommended for acceptance by the Committee constituted in this behalf, the Authority by its Resolution No. 30 rejected the offers on the ground that they did not depict the expected competitiveness and directed that the tenders should be called again so that these plots fetch higher prices. Learned Counsel submits that it has already been decided by this Court in Mangal Amusement Park (supra), that notwithstanding the stipulation in the tender notice to the effect that Authority has full power to accept or reject any or all tender applications, the rejection should be on sound basis for which cogent reasons should be assigned. We are unable to appreciate the contention of the learned Counsel based on the said judgment. As pointed out hereinabove, though it was recommended that the highest bid should be accepted, it was clear that the non-acceptance of all the bids was on account of the fact that the Authority was not satisfied with the rates quoted and it expected higher rates if the process was repeated. The said decision of the Authority cannot be branded as arbitrary or whimsical. The respondent-IDA--is engaged in the sale of plots of its Scheme and as prudent businessman, it is expected that the Office bearers and other servants of the IDA will act in the best interest of the Authority.

Another argument advanced by the learned Counsel for the appellant is based on the construction of Rule 18 of the Rules of 1975. He has invited attention to Paragraph No. 21 of the report (supra), in which Rule 18 of the Niyam of 1975, has been quoted. Insofar as the Rule is concerned, it is true that it has been quoted in the judgment, but we fail to notice any discussion with regard to the construction, applicability and ambit of the said Rule. Rule 18 of the Rules of 1975, reads as under:

18. Where it is proposed to dispose of any land by inviting tenders full publicity shall be given to the notice inviting tenders in at least 2 newspapers one of which shall be a local Hindi paper and by getting notices affixed in offices of the Town and Country Development Authority, Municipal Corporation, Municipal Council, Collector, Commissioner and the Tehsildar concerned. The Authority may accept any tender out of the tenders so received but where it does not accept highest tender it shall record reasons for doing the same.

A bare reading of the Rule will bear out that the provision of the said Rule apply in a different sphere. It is only when the Authority proceeds to accept a bid which is not highest, it is enjoined with a duty to assign cogent reasons for the same. The Rule therefore, prevents arbitrariness on the part of the Authority.

The Authority in its wisdom has not accepted the tenders received and even though the learned Counsel has strenuously urged that as many as 12 tenders were received and, therefore, it indicated that parties were seriously competing,

the Authority deemed it fit to re-advertise to obtain fresh tenders, it is clear that it was with a view to act in the interest of the Authority that it was directed to repeat the process so that offer of still higher rates could be received. Thus, even if tested on the requirement laid down in the said Division Bench decision, it is clear that the requirement stands complied with and the action of the Authority is not only in conformity of the Rules, but also in conformity of the law laid down in the said judgment by the Division Bench.

In view of the above discussion, we find no substance in this appeal. The appeal is dismissed summarily.