

(2003) 02 RAJ CK 0008

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 1634/03 and 1635/03

Santosh Sharma and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 26-02-2003

Acts Referred:

Citation : (2003) 02 RAJ CK 0008

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : Sangeeta Sharma and Mr. G.K. Garg, for the Appellant; B.M. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Gyan Sudha Misra, J.—The petitioners have challenged the action of the respondents alleging that although the petitioners were the highest bidder for the shops in the auction sale which was held on 2.12.2002, their bids were arbitrarily not accepted by the respondents and the same shops were to be put to fresh auction. At this stage, the petitioners filed these writ petitions attributing malafide motive, against the respondents on which a show cause notice was issued to the respondents and an order restraining the respondents from auctioning the four shops was also granted in favour of the petitioners.

2. After service of notice on the respondents, reply came forward on their behalf and their counsel Mr.B.M.Sharma was also heard. It was urged by him that all the shops in the area were put to auction on various dates and the competent authority was keeping a watch over the price which were fetched from the shops which were put to auction. This indicated that all the auctions which were held for the other shops i.e. prior to 2.12.2002 had been auctioned for riot less than Rs. 1500/- per month (as the auction for grant of lease for the shops was for grant on month to month basis) but the petitioners highest offer was only to the extent of Rs. 1020/-. The respondents therefore, in view of the clause which was published in the auction notice laying down that the auctioneer reserves the right

to accept or reject any bid without assigning any reason, thought it proper not to accept the bid of the petitioners and took a decision to put the shops to auction inviting fresh bid at a later date.

3. The grievance raised on behalf of the petitioners is that their demand drafts after auction having been retained by the respondents for quite some time, created an impression in the mind of the petitioners that their bids had been accepted.

4. However, the petitioners seem to have ignored that even though their offer was the highest on the date of auction, the same were lower than the other shops in the same area which were auctioned on other dates. The respondents in a circumstance of this nature cannot be alleged to behaving any malafide motive in cancelling the auction, which was held on 2.12.2002 specially, in view of the clause given out in the advertisement itself which envisaged that the auctioneer reserves the right to cancel the auction without assigning any reason, In fact there is also a rule of the State Government in this regard due to which this clause had been incorporated in the advertisement. Hence, in View of the clause incorporated in the auction notice reserving the right to accept or cancel the auction without assigning any reason and on account of the existing situation that the petitioners' bid was not the highest of all even though it was highest on 2.12.2002, the same cannot be held to be creating a right in their favour so as to claim the shops on lease-rent, Therefore, in the existing facts and circumstances of the case, the plea of the petitioners that they were the highest bidders for the shops/stands clearly demolished. As already stated, the petitioners might have been the highest bidder in the auction held on 2.12.2002, but to contend that they were the highest bidder among all the others persons, who participated in the bid, is not correct which is clear from the facts stated hereinbefore.

5. Both the writ petitions therefore stand dismissed at the admission stage itself.