
(2016) 11 RAJ CK 0111

In the Rajasthan High Court

Case No : Civil Writ Petition No. 18608 of 2015 (With Stay Application No. 16439 of 2015)

Surendra Kumar

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 25-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 WLCRajUC 77

Hon'ble Judges : Mr. Mohammad Rafiq, J.

Bench : Single Bench

Advocate : Mr. Satya Narayan Kumawat, Advocate, for the Petitioners

Final Decision : Disposed Off

Judgement

Mr. Mohammad Rafiq, J.—This writ petition has been filed by petitioners challenging order dated 26.09.2012 (Annexure-7) passed by the Chief Executive Officer, Municipal Corporation, Ajmer, and order dated 29.07.2015 (Annexure-8) passed by the Director, Local Bodies, Rajasthan, Jaipur, by which the appeal filed by petitioners has been dismissed.

2. Petitioners filed appeal against the order of respondent no.3 - Chief Executive Officer, Ajmer, by which the amount of Rs.9,71,898/- deposited by them for Plot No. E-369/A, Shastri Nagar, Ajmer, measuring 204.61 square yard, allotted to them in auction, has been forfeited.

3. According to the respondents, the amount was forfeited because despite several reminders, the petitioners failed to deposit the remaining amount and therefore the plot had to be re-auctioned.

4. Learned counsel for the petitioners, in support of the case, has relied on judgment of the Supreme Court in M/s. Kailash Nath Associates v. Delhi Development Authority and Another - 2015 (1) WLC (SC) Civil 404, and argued that on account of non-deposit of balance of 75% of the bid amount, neither

auction can be cancelled nor earnest money can be forfeited.

5. However, at the same time, learned counsel for the petitioners submitted that the petitioners have also filed Civil Suit challenging the aforesaid order of forfeiture.

6. If that be so, the remedy of writ petition may not be available to the petitioners because they have availed the efficacious alternative remedy by of approaching the civil court. However, it is clarified that the order of the Director, Local Bodies, Rajasthan, Jaipur, shall not in any manner influence the discretion of the civil court, if the petitioners persuaded it, to pass an order in their favour.

7. With that observation, the writ petition is disposed of. This also disposes of stay application.