



2025:DHC:175-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 24.12.2024
Judgment delivered on: 15.01.2025

+ LPA 1247/2024, CM APPL. 76184/2024

MANISH DABAS

....Appellant

versus

DELHI DEVELOPMENT AUTHORITY
& ORS.

....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Dhruv Chawla, Advocate.

For the Respondent : Ms. Pooja Kapur, Advocate.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866 assailing the judgement dated 25.11.2024 (hereafter *the impugned judgment*) passed by the learned Single Judge whereby the underlying writ petition bearing W.P.(C) 7203/2022 titled '*Manish Dabas vs. Delhi Development Authority & Ors*' filed by the appellant was dismissed.



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2. The facts, shorn of unnecessary details and germane to the issue at hand and collated from the underlying writ petition and the present appeal, are as follows:-

- a) The respondent no.1/DDA *vide* e-auction notification dated 13.03.2022 invited bidders for the sale of residential plot under Delhi Development Authority (Disposal and Developed Nazul Land) Rules, 1981 (hereafter '*DDA Rules, 1981*').
- b) Accordingly, the appellant registered himself for the purchase of residential Plot No. 97/2, Pkt-B-3, Sector-17, Dwarka (hereafter '*subject property*') bearing 155.53 sq. mts. having Reserve Price of Rs.1,98,58,070/- by depositing 1st stage Earnest Money Deposit (hereafter '*EMD*') being 5% of the Reserve Price. The bidding procedure for the aforesaid plot took place on 19.04.2022.
- c) It is the case of the appellant that he was the highest bidder at Rs. 2,07,08,070/- and the grievance of the appellant is that bidding was cancelled and the e-auction was rescheduled after bidding time was closed for 22.04.2022, which is contrary to Rule 30 of the DDA Rules, 1981.
- d) Being aggrieved, the appellant filed the underlying writ petition challenging the decision of the respondent no.1/DDA on the account of the same being arbitrary and illegal.
- e) During the course of the proceedings before the writ court, the respondent no.1/DDA had filed its short affidavit dated 19.05.2022 wherein it had stated that the subject property was put up for e-



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auction on 19.04.2022 along with total of 124 other properties; and that when the e-auction bidding commenced on 19.04.2022, there were some snag/technical glitches in the system and there were complaints from the bidders that they were not able to access the e-auction portal of the respondent no.1/DDA; and based on such complaints, and in order to get the best market price, a decision was taken by the competent authority to reschedule the e-auction for 22.04.2022 and accordingly, a Corrigendum was issued on 19.04.2022 itself for holding e-auction on 22.04.2022.

- f) It was further stated by the respondent no.1/DDA that though the appellant made a bid for Rs.2,07,08,070/-, however, on 22.04.2022, the respondent no.1/DDA was able to get a higher bid for the subject property to the tune of Rs.4,41,58,070/- from the respondent no.3/PISTA herein, who was declared as a successful bidder. It was further pointed out that on 22.04.2022, 12 bidders had bid for the said plot in question and 205 bids were made; and the appellant was not prevented from participating in the rescheduled e-auction on 22.04.2022.
- g) The learned Single Judge, after considering the submissions of the appellant and the respondent no.1/DDA, dismissed the underlying writ petition *vide* impugned judgment dated 25.11.2024 and held that: (i) the respondent no.1/DDA had fetched a higher price in the rescheduled auction than the appellant's quoted price; and (ii) though the appellant was eligible to participate in the re-auction dated



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22.04.2022 but chose not to.

h) Aggrieved by such decision, present appeal has been preferred by the appellant.

CONTENTIONS OF THE APPELLANT:-

3. Mr. Dhruv Chawla, the learned counsel for the appellant submitted that the respondent no.1/DDA had arbitrarily rejected the bid of the appellant despite the appellant being the highest bidder.

4. Learned counsel submitted that the sole justification provided by the respondent no.1/DDA for cancelling the e-auction conducted on 19.04.2022 and rescheduling the e-auction process was the occurrence of “*technical glitches*” that allegedly hindered the proper functioning of the auction portal. However, the learned Single Judge in Para 17 of the impugned judgment categorically noted, “*there is no iota of material to substantiate the plea advanced by the learned counsel for the respondent-DDA that there were technical glitches in the operation of e-portal on 19.04.2022 that prevented many persons from placing/submitted bids.*”. He stated that contrary to the finding that no credible evidence was presented by the respondent no.1/DDA, learned single Judge proceeded to dismiss the underlying writ petition.

5. In support of the aforesaid contentions, the learned counsel also referred to the Corrigendum dated 19.04.2022 issued by the respondent no.1/DDA.

6. The learned counsel also laid great stress on para 5 of the affidavit filed on behalf of the respondent no.1/DDA on 19.05.2022 in the underlying



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writ petition. According to him, the respondent no.1/DDA had sought to justify its arbitrary action of setting aside the appellant's highest bid on account of its intention of fetching a higher price for the auctioned plot. The averment that the market value of the plot was much higher is absolutely absurd since the Reserve Price before the start of the auction was set at Rs.1,98,58,070/-. Thus, since the appellant's H1 bid was clearly higher than the said Reserve Price, the same could not have been rejected merely on the ground that a higher price could have been achieved by the respondent no.1/DDA. He stated that if that be the case, an auction may be continued to be rescheduled indefinitely since every subsequent bid would, in all likelihood, fetch a higher price than the preceding one.

7. The learned counsel also referred to Rule 30 of the DDA Rules, 1981.

“30. Rejection of bid

The officer conducting auction may, for reasons to be recorded in writing and submitted to the Vice-Chairman, reject any bid including the highest bid”

Thus, even in case the said bid was to be rejected in exercise of powers under Clause 1.9 read with Clause 2.6 of the tender notice, the said rejection could not have been carried out in the manner it was done. He emphasised that this act was in outright and blatant violation of Rule 30 of the DDA Rules, 1981 which categorically provides that reasons for the rejection ought to be recorded in writing and submitted to the Vice Chairman. He contended that since no reasons are furnished in the impugned decision, the same ought to be quashed.

8. Further, the learned counsel for the appellant placed reliance on the



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observations made by the Supreme Court in the case of ***City and Industrial Development Corporation of Maharashtra Ltd. v. Shishir Realty (P) Limited., 2021 SCC OnLine SC 1141***, wherein it was observed as under:

“61. When a contract is being evaluated, the mere possibility of more money in the public coffers, does not in itself serve public interest. A blanket claim by the State claiming loss of public money cannot be used to forgo contractual obligations, especially when it is not based on any evidence or examination. The larger public interest of upholding contracts and the fairness of public authorities is also in play. The courts need to have a broader understanding of public interest, while reviewing such contracts.

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75. Before we state the conclusions, this Court would like to reiterate certain well-established tenets of law pertaining to Government contracts. When we speak of Government contracts, constitutional factors are also in play. Governmental bodies being public authorities are expected to uphold fairness, equality and rule of law even while dealing with contractual matters. It is a settled principle that right to equality under Article 14 abhors arbitrariness. Public authorities have to ensure that no bias, favouritism or arbitrariness are shown during the bidding process. A transparent bidding process is much favoured by this Court to ensure that constitutional requirements are satisfied.

76. Fairness and the good faith standard ingrained in the contracts entered into by public authorities mandates such public authorities to conduct themselves in a non-arbitrary manner during the performance of their contractual obligations.

77. The constitutional guarantee against arbitrariness as provided under Article 14 demands the State to act in a fair and reasonable manner unless public interest demands otherwise. However, the degree of compromise of any private legitimate interest must correspond proportionately to the public interest, so claimed.

78. At this juncture, it is pertinent to remember that, by merely using grounds of public interest or loss to the treasury, the successor public authority cannot undo the work undertaken by the previous authority. Such a claim must be proven using material facts, evidence and



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figures. If it were otherwise, then there will remain no sanctity in the words and undertaking of the Government. Businessmen will be hesitant to enter government contract or make any investment in furtherance of the same. Such a practice is counter-productive to the economy and the business environment in general.”

9. Lastly, learned counsel pointed out a contradiction in the stand taken by the respondent no.1/DDA. He submitted that on the one hand, respondent no.1/DDA took the stand that the e-auction process was rescheduled on account of a technical glitch whereas on the other hand, in its counter affidavit, the respondent no.1/DDA contended that the rescheduling took place on account of the market value of the plot being much higher. According to the learned counsel, there being no consistency, rather, a mutually destructive stand, the writ petition of the appellant ought to have been allowed.

CONTENTIONS OF THE RESPONDENT NO.1:-

10. Learned counsel for the respondent no.1/DDA made general submissions in support of the impugned judgment.

ANALYSIS & CONCLUSIONS:-

11. At the outset, it is pertinent to note that the respondent no.1/DDA had, in its counter affidavit, categorically stated that the e-auction dated 19.04.2022 was only extended and the re-auction had taken place on 22.04.2022. It has categorically been asserted that the original e-auction dated 19.04.2022 was neither cancelled nor annulled and that the participants of the original e-auction process were also free to participate on 22.04.2022, too.



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12. Apparently, the stand of the respondent no.1/DDA is predicated on two issues, (i) that there was no cancellation or annulment of the e-auction process but only an extension on account of technical glitches faced by a substantial number of participants and; (ii) that all the participants were free and at liberty to participate in the extended auction process which the appellant ignored despite being informed. Premised thereon, the respondent no.1/DDA asserted that there is no violation of any rule or provision of law, much less any fundamental right, edified whereon the underlying writ petition was filed.

13. Thus, the only and short question to be considered is as to whether the respondent no.1/DDA had breached any condition of the e-auction process or any fundamental rights of the appellant.

14. This Court has perused the affidavit of the respondent no.1/DDA filed in opposition to the underlying writ. It is apparent that considering the substantial number of complaints by individuals who wanted to participate in the e-auction process regarding inability to participate due to some technical glitches, the respondent no.1/DDA had extended the said process from 19.04.2022 to 22.04.2022. It is also clear that the right to further participate in the re-auction process was also available to all and sundry including the appellant. It is pertinent to note that despite such knowledge being attributable to the appellant, he never participated further in the said process. No doubt, the appellant had bid higher (Rs.2,07,08,070/-) than the Reserve Price (Rs.1,98,58,070/-) on 19.04.2022, yet chose not to participate further. Merely because the appellant had bid higher than the Reserve Price



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on 19.04.2022 does not, *ipso facto*, entitle him for a declaration that he ought to be deemed to continue as H1, particularly, when the auction process was extended further on cogent grounds. In fact, the Corrigendum dated 19.04.2022 clarifies and justifies the reasons for “*rescheduling*” the e-auction and also informs that “*All the registered bidders who had deposited the EMD within stipulated time are required to participate as per the revised schedule*”. The appellant does not dispute the information contained in the Corrigendum dated 19.04.2022. We do not find any error in the methodology adopted by the respondent no.1/DDA, particularly keeping in view that the respondent no.1/DDA was able to ensure a larger participation on account of rescheduling due to technical glitches faced by many individuals.

15. The respondent no.1/DDA had maintained a stoic stand that apart from the above technical glitch, the market price of the subject property was much higher. The said stand seems to have been vindicated by the accepted auction price of Rs.4,41,58,070/-. The affidavit also discloses that 205 bids were made and twelve (12) bidders had competitively bid for the subject property. Surely, Courts cannot stifle the authority from seeking highest and best prices for the properties it puts to auction. No doubt that the process has to be fair and transparent and should not do injustice to the participants.

16. The appellant relied upon the Dashboard dated 19.04.2022 which announced the appellant as H1 to submit that once the respondent no.1/DDA itself declared appellant as H1 and simultaneously declared that the “*Auction has Ended*”, the respondent no.1/DDA could not have



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reopened or rescheduled the same except in accordance with Rule 30 of the DDA Rules, 1981. The appellant submitted that there being no such order, the Corrigendum dated 19.04.2022 and the subsequent auction process is completely vitiated.

17. Though the respondent no.1/DDA relied upon Clauses 1.9 and 2.6 of the e-auction to further justify its actions, yet, we find that those clauses may not be applicable. This is for the reason that no action as contemplated under such clauses was initiated. In fact, the respondent no.1/DDA had neither cancelled nor were the bids rejected as contended. The respondent no.1/DDA had, merely on account of the technical glitches faced by a substantial number of participants, decided to extend/re-schedule the e-auction process. Simultaneously, to be fair to the earlier participants, also provided a fair opportunity to participate further. The appellant having not participated further cannot turn around to predicate his claim on the basis of having been declared H1. The argument based on violation of Rule 30 of the DDA Rules, 1981 is also unfounded. This is for the reason that as there was no rejection of any bid, Rule 30 as aforesaid would not come into play at all. Moreover, the appellant appears to have also received the first stage EMD of 5% deposited by him.

18. Apart from the above, a perusal of the impugned judgement would bring to fore that the learned Single Judge has examined the dispute threadbare and has minutely considered not only the relevant clauses but also the impact of Rule 30 of DDA Rules, 1981. We are in agreement with the findings and observations apart from our own view noted in the



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preceding paragraphs.

19. We have perused the judgment in *City and Industrial Development Corporation of Maharashtra Ltd. (supra)*. There is no quarrel with the proposition laid down by the Court. However, in the present case, since there is no issue regarding cancellation of auction process or rejection of a bid, the ratio laid down therein would not be applicable in the facts of the present case.

20. As an upshot of the above analysis, the present appeal being *sans* merit is dismissed, though without any order as to costs.

21. Pending application stands disposed of.

TUSHAR RAO GEDELA, J

VIBHU BAKHRU, ACJ.

JANUARY 15, 2025/rl