

Bhola Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Sep-20-2004

Reported in : 2005(1)AWC186

Judge : S.U. Khan, J.

Acts : [Constitution of India](#) - Article 14

Appeal No. : C.M.W.P. No. 13560 of 2004

Appellant : Bhola

Respondent : State of U.P. and ors.

Advocate for Def. : W.H. Khan and ;S.P. Mishra, Advs. and ;V.K. Singh, S.C.

Advocate for Pet/Ap. : V.M. Zaidi and ;G.B. Mishra, Advs.

Judgement :

ORDER

S.U. Khan, J.

1. The dispute in the instant writ petition relates to grant of lease of fisheries right in respect of a pond comprised in plot Nos. 1170 (2.063 hectares) and 1233 (2.063 hectares) total area 4.126 hectares. Land Management Committee through resolution dated 28.10.2003 granted the lease in favour of the respondent No. 5

Matsya Jeevi Sahkari Samiti for ten years for Rs. 15,000 (Rs. 1,500 per year). The resolution was approved by Deputy Collector/S.D.O. Naraini, District Banda on 20.12.2003. Petitioner has challenged the said resolution and its approval through this writ petition. On 13.9.2004, the Court passed an order proposing to auction the pond in question in between petitioner and respondent No. 5 in Court and directed their respective learned counsel to seek instruction from their clients in this regard. Today the auction was held in Court. The bids for annual rent/premium for fisheries lease in respect of the pond in question proceeded in the following manner :

Petitioner	Respondent	No. 5	Rs. 15,000	Rs. 20,000	Rs. 21,000	Rs. 25,000	Rs. 26,000	Rs. 27,000	Rs. 28,000	Rs. 29,000	Rs. 30,000	Rs. 31,000	Rs. 32,000	Rs. 33,000	Rs. 40,000	Rs. 45,000	Rs. 46,000	Rs. 47,000	Rs. 50,000	Rs. 51,000	Rs. 52,000	Rs. 55,000	Rs. 60,000	Rs. 61,000
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2. The bids were made on behalf of their respective clients by Sri W.H. Khan, learned counsel for the respondent No. 5 and Sri Ganga Bhushan Mishra, learned brief holder of Sri V. M. Zaidi. learned counsel for the petitioner. Learned counsel for the petitioner expressed inability of his client to increase the bid from Rs. 61,000 per year.

3. In the authority of Supreme Court in Ram and Shyam Co. v. State of Haryana, AIR 1985 SC 1147, auction of lease-hold rights in respect of a quarry in between appellant and respondent No. 4, rival claimants, was held in open Court.

4. The annual premium of Rs. 4.5 lacs, for which lease had been granted to respondent No. 4 was gradually enhanced by the parties ultimately bid of appellant of Rs. 25 lacs remained unchallenged. The lease was directed to be settled in favour of appellant for annual premium of Rs. 25 lacs by the Supreme Court.

5. After quoting the bids (21 in number) of both the parties the Supreme Court mentioned in para 6 as follows :

'Para 6. Shock and surprise was visible on the face of each one in the Court. Shock was induced by the fact that public property was squandered away for a

song by persons in power who hold the position of trust. Surprise was how judicial intervention can serve larger public interest. One would require multi-layered blindfold to reject the appeal of the appellant on any tenuous ground so that the respondent may enjoy and aggrandize his unjust enrichment. On this point we say no more.'

6. In the aforesaid authority of Supreme Court due to judicial intervention (auction in Court) annual premium was enhanced from Rs. 4.5 lacs to Rs. 25 lacs, i.e., about 5.5 times. In the instant case, judicial intervention has yielded 40 times increase (from Rs. 1,500 per year to Rs. 61,000 per year).

7. Learned counsel for the respondent during the course of bidding had sought permission of the Court for grant of lease in favour of Shamsuddeen in case ultimately the bid of respondent No. 5 was accepted. The Court had granted the permission.

8. Accordingly it is directed that formal lease deed of the aforesaid pond shall be executed in favour of Shamsuddeen alias Manni s/o Samsher Khan, Resident of village Pangara, Tahsil Naraini, district Banda, within three weeks from today by Deputy Collector for ten years at an annual rent/premium of Rs. 61,000.

9. Writ petition is disposed of accordingly.