

**BEFORE DESIGNATED COURT UNDER MPID ACT AT
BOMBAY CITY CIVIL & SESSIONS COURT AT MUMBAI**

MISC. APPLICATION NO.474 OF 2017

IN

MPID CASE NO.01 OF 2014

Parvinder Singh, age 27)
 an adult, Occupation : Business,)
 R/at 2/B44, Ramesh Nagar)
 New Delhi 110 015) .. **Applicant**

Versus

1. State of Maharashtra)
 At the instance of)
 The D.Y. Collector (Land Acquisition))
 Mumbai city and Competent Authority)
 (MPID/NSEL))
)
2. Chand U. Pal)
 Authorized Representative,)
 M/s.Prestige Auto World Delhi) .. **Respondents**

Learned Advocate Mr.Sandip Sherkhane for the applicant.
Learned SPP Mr.Avinadh B. Avhad for the State/respondent No.1.
Learned Advocate Mr.Vedchetan Patil for respondent No.2.
Learned Advocate Mr.Bhosale i/b Advocate Mr.Karnik for the Intervener.

CORAM : AJAY DINODE
Special Judge, MPID Act
& Addl. Sessions Judge,
City Civil & Sessions Court,
Gr.Bombay

DATE : 18th April, 2017
(Court Room No.33)

: ORDER :

Applicant – Parvinder Singh filed this application for re-

bidding and re-auction of the sale of vehicle- Land Rover HR-26-BY 2727.

: BRIEF FACTS :

2. This Court ordered the auction sale of 2 vehicles viz. Land Rover bearing registration No. HR-26-BY-2727 (hereinafter referred as "Vehicle No.1 (2727)") and Land Rover bearing Registration No.HR-26-BY-4050 (hereinafter referred as "Vehicle No.2 (4050)"). As per the directions of this Court, valuation of both the vehicles was determined and the public auction sale was proposed on 05/04/2017 by the Competent Authority at the office of Collector's Office, Mumbai. The paper publication calling the bids was published. In addition to it, the bid was published on website www.mumbaicity.nic.in. As per the valuation report, the valuation of "Vehicle No.1 (2727)" was determined as Rs.15,10,000/- and the valuation of "Vehicle No.2 (4050)" was determined as Rs.9,25,000/-.

3. As per the report submitted by the competent authority at **Exh.4**, one Mr.Chand Uppal (M/s.Prestige Autowo World Delhi) was found to be the highest bidder of Rs.30,00,000/-for "Vehicle No.1 (2727)" and one Mr.Parvinder Singh (M/s.Prince Motors) was found to be the highest bidder for "Vehicle No.2 (4050)"

: CONTENTIONS OF THE APPLICANT :

4. According to the applicant, he is the successful bidder of "Vehicle No.2 (4050)" for Rs.23,81,000/-. He reached and participated in the auction sale process for vehicle "Vehicle No.2 (4050)". The auction sale was proposed and fixed at 11.00 a.m. on 05/04/2017. He deposited the requisite earnest amount of Rs.1,51,000/- to participate

in the entire process for both the vehicles. However, there was an accident taken place on road, which led to heavy traffic and therefore, applicant reached late at the place of auction sale. Due to such bonafide reason, the applicant was avoided from participating in the auction sale of first "Vehicle No.1 (2727)" and was avoided from bidding the higher price. The applicant is ready to quote the higher price of Rs.32,00,000/- for "Vehicle No.1 (2727)". Therefore the auction sale process of "Vehicle No.1 (2727)" be reopened and his highest bid be accepted. Learned Advocate for the applicant argued accordingly and claimed to re-open the bidding process of "Vehicle No.1 (2727)"

: REPLY OF RESPONDENT NO.1/STATE :

5. Respondent No.1-State of Maharashtra through the competent authority filed the detail reply at **Exh.4** and pointed out that entire auction sale process was carried out in accordance with the rules and provisions of law. The applicant failed to raise any objection about the bidding process of "Vehicle No.1 (2727)" till late hours on the day of auction and directly approached this Court. Thus, the conduct of the applicant is not bonafide. The proper protest was not raised and registered by the applicant before the competent authority and therefore, such application cannot be entertained. In alternative, it is claimed by the competent authority that the interest of the depositors is to be looked into and if the higher amount can be recovered from re-auction, then necessary orders be passed.

: REPLY OF RESPONDENT NO.2 :

6. Respondent No.2 was served and appeared by filing the reply at **Exh.6**. Respondent No.2 strongly opposed the application

contending that, the reason of the applicant for not participating in the auction sale process of "Vehicle No.1 (2727)" is not bonafide. No documentary evidence to support such contention is placed on record. Respondent No.2 is the highest bidder and the auction sale process of "Vehicle No.1 (2727)" became final. Thus auction sale process cannot be re-opened on such baseless contentions of the applicant. In alternative, it is claimed that if this Hon'ble Court is opening the auction sale of "Vehicle No.1 (2727)" afresh, then the auction sale of "Vehicle No.2 (4050)" be again re-opened and the bid of the applicant which was finalized on 05/04/2017 for "Vehicle No.2 (4050)" has to be re-opened and the re-bidding process of both the vehicles be carried out. Learned Advocate for respondent No.2 argued accordingly.

: CONTENTIONS OF THE ORI. INFORMANT/INVESTOR :

7. Considering the nature of relief involved in the application, the original informant-Mr.Pankaj Saraf and his Advocate was given hearing. Learned Advocate for the original informant submitted that the higher amount can be fetched by re-opening of the auction sale process. Therefore the original informant/investor gave no objection for re-opening the auction sale process for both vehicles in the open Court, afresh.

8. For the efficacious adjudication of the dispute involved, parties were directed to remain present personally before the Court. In response, respondent No.2-Mr.Chand Uppal, who is the authorized representative of M/s.Prestige Auto World Delhi remain present. On behalf of the applicant, learned Advocate Mr.Sandip Sherkhane is present and made a statement before the Court that he is authorized to make the bid on behalf of the applicant in the open Court Hall.

9. In the facts and circumstances of the case, it appears that the applicant claims that, he could not participate in the auction sale process of "Vehicle No.1 (2727)". In support of such contention, the applicant placed on record the bill of the hotel "Planet Residency Pvt.Ltd." where the authorized person for the applicant stayed from 03/04/2017 to 05/04/2017. The invoice reflects that one Mr.Pankaj Sharma left the hotel at 10.29 a.m. i.e. half an hour prior to starting of the bidding process on 05/04/2017. The reason of heavy traffic due to accident for reaching late to the auction sale process appears to be acceptable and just, in the situation prevailing in city of Mumbai. The hotel where the representative of the applicant-Mr.Pankaj Sharma was staying is situated at Vile Parle and it requires sufficient time to reach at South Central Mumbai. Therefore the contention of the applicant that he reached late in auction process is acceptable. The record further shows that the applicant participated in the auction process of "Vehicle No.2 (4050)" and reached late in the auction process.

10. The aim and object of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (In short, MPID Act) is to secure and protect the interest of the depositors/investors. The auction sale of the vehicles was directed for recovery of money for the investors/depositors. Therefore, it is expected that, higher price must be fetched by the auction sale process of the vehicles. In light of the aim and object of the MPID Act and in view of the reasons quoted by the applicant for not participating in the auction sale of vehicle HR-26-BY-2727, auction sale of both the vehicles can be re-opened for fetching the higher value to save the interest of investors/depositors.

11. Therefore the bidding and auction of both the vehicles is re-opened with a view to obtain and fetch the higher value than that of the finalized auction sale.

: AUCTION SALE OF "VEHICLE NO.1 (2727)" :

12. During re-bidding and re-auction sale process, at the first point of time, the applicant gave the bid of Rs.32,00,000/- for "Vehicle No.1 (2727)". In response, the successful bidder i.e. respondent No.2 gave the value of Rs.33,00,000/-. To which, the applicant again bid Rs.33,50,000/-. In response, respondent No.2 made the bid of Rs.34,00,000/-. Thereafter the applicant quoted the amount of Rs.34,50,000/-. Respondent No.2 through his authorized representative has not quoted the higher bid more than Rs.34,50,000/-. Therefore as the applicant is found to be the highest bidder of Rs.34,50,000/- for "Vehicle No.1 (2727)", the bid of Rs.34,50,000/- is finalized in the open Court in presence of all the parties for "Vehicle No.1 (2727)"

: AUCTION SALE OF "VEHICLE NO.2 (4050)" :

13. In respect of "Vehicle No.2 (4050)", respondent No.2 quoted the price of Rs.24,00,000/-. To which, the applicant quoted the price of Rs.25,50,000/-. In response, respondent No.2 again quoted the price of Rs.26,00,000/-. Again the applicant quoted the price of Rs.26,50,000/- in open Court Hall to which, respondent No.2 shown his inability to quote the higher price than Rs.26,50,000/-. Therefore the applicant is found to be the highest bidder for Rs.26,50,000/- for "Vehicle No.2 (4050)" and his bid is accepted.

14. After completion of the bidding process in open Court Hall, in presence of all the parties, the bid of the applicant for "Vehicle No.1

(2727)” is accepted for Rs.34,50,000/- and for “Vehicle No.2 (4050)” is accepted for Rs.26,50,000/- and both the bids are finalized in the open Court Hall.

15. Respondent No.2 made the submission before the Court that the applicant be directed to deposit the amount within time bound program and if the applicant failed to fulfill the time bound program and failed to lift the vehicles within 72 hours, the second highest bid of respondent No.2 worth Rs.34,00,000/- for “Vehicle No.1 (2727)” and Rs.26,00,000/- for “Vehicle No.2 (4050)” be accepted.

16. I found substance in the submission of respondent No.2. The entire auction sale process was re-opened and re-bidding was carried out to protect the interest of depositors. Therefore, the time bound program with alternative arrangement is necessary for the prompt fulfillment of the auction sale process to fetch the higher value within the specified time. Therefore in the facts of the case, the applicant is directed to deposit the amount of Rs.34,50,000/- and Rs.26,50,000/- for both the vehicles within 72 hours and shall take the custody/delivery of the vehicles from the competent authority within 72 hours, without fail.

17. If the applicant failed to deposit the amount and failed to take the delivery of the vehicles within 72 hours, in such event, the second highest bidder i.e. respondent No.2-Mr.Chand Uppal, authorized representative of M/s. Prestige Auto World Delhi is entitled to deposit the amount of Rs.34,00,000/- and Rs.26,00,000/- within next 72 hours and shall take the delivery within the said period.

18. If the applicant failed to comply with the directions of this Court and complete the auction sale process by depositing the money and lifting the vehicles within 72 hours, the earnest amount deposited by the applicant is liable to be forfeited to the Government and similar condition will be applicable in respect of respondent No.2 and in addition to it, half of bidden amount shall be imposed as penalty on respective parties, in the event of failure to comply this order within time.

19. For the discussion and reasonings above, following order is passed.

: O R D E R :

1. Misc. Application No.474 of 2017 is partly allowed.
2. The auction sale process of vehicle Land Rover bearing registration No.HR-26-BY-2727 is re-opened alongwith auction sale process of the other vehicle-Land Rover bearing registration No. HR-26-BY-4050.
3. Bid of Rs.34,50,000/- (Rs.Thirty Four Lakh Fifty Thousand only) by the applicant-Parvinder Singh for 'M/s.Prince Motors' is accepted for vehicle Land Rover bearing registration No.HR-26-BY-2727.
4. Bid of Rs.26,50,000/- (Rs.Twenty Six Lakh Fifty Thousand only) by the applicant-Parvinder Singh for 'M/s.Prince Motors' is accepted for vehicle Land Rover bearing registration No.HR-26-BY-4050.
5. The applicant is directed to deposit the total amount of Rs.61,00,000/- (Rs.Sixty One Lakh) within next 72 hours and shall take the delivery of the vehicles within the said

period from the competent authority, without fail.

6. In case the applicant fails to deposit the amount and/or failed to take the delivery of the vehicles within next 72 hours stipulated time, the bid of respondent No.2-Chand Uppal for 'M/s. Prestige Auto World Delhi' be accepted for Rs.34,00,000 (Rs.Thirty Four Lakh only) for vehicle Land Rover bearing registration No.HR-26-BY-2727 and Rs.26,00,000/- (Rs.Twenty Six Lakh only) for vehicle Land Rover bearing registration No.HR-26-BY-4050.
7. In case of failure of the applicant, respondent No.2 is directed to pay the amount within next 72 hours and to take the delivery of the vehicles within the said period.
8. If the applicant and/or respondent No.2, both commits the default, vehicles shall be kept for re-auction.
9. If the applicant and/or respondent No.2 (as the case may be) fails to comply the directions of the Court, their earnest amount already deposited shall liable to be forfeited and in addition to it, the half of the bidding amount quoted by the applicant and/or respondent No.2 (as the case may be) will be recovered from them towards the penalty for making the default of the orders of this Court.
10. The applicant and his Advocate and the respondents and their Advocates have not raised any protest against any of the conditions imposed in the order and thereby they waived their right to raise the protest against the conditions in this orders, including directions to pay penalty amount.
11. The order is pronounced at 5.30 p.m. in open Court Hall in presence of all the parties

12.Misc. Application No.474 of 2017 stands disposed of accordingly.

Dt.18/04/2017

(Ajay Dinode)
Special Judge, MPID Act &
Additional Sessions Judge,
City Civil & Sessions Court,
Gr. Bombay

Dictated on : 18/04/2017
Typed on : 19/04/2017
Signed on : 19/04/2017

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

On 20/04/2017 at 10.41 a.m.

UPLOAD DATE AND TIME

Mrs. M. M. Salgaonkar
NAME OF STENOGRAPHER

Name of the Judge (With Court Room No.)	H.H.J. Shri Ajay R. Dinode, C.R.No.33
Date of Pronouncement of JUDGMENT/ORDER	18/04/2017
JUDGMENT/ORDER signed by P.O. on	19/04/2017
JUDGMENT/ORDER uploaded on	20/04/2017