

**SUPREME COURT OF INDIA**

Jai Enterprises

Vs.

Ambika Enterprises

SLP(C) No.5348 of 2010

(R.V. Raveendran,J.,)

12.01.2011

**ORDER**

1. The second respondent Trust is the owner of Survey No.124 of village Wakad, Taluke Munshi, District Pune admeasuring 4 hectares 67 ares. The first respondent had filed W.P. No.7373/2008 for setting aside the order dated 8.10.2008 passed by the Charity Commissioner under Section 36 of the Bombay Public Trust Act according permission for the proposed sale of the said property by the second respondent-Trust to the petitioner herein for a consideration of Rs.1,26,09,000/-. The first respondent contended that the sale was at an absurdly low price and against the interest of the Trust. The first respondent also offered a price of Rs. Five crores for the said property. The said writ petition was allowed by the impugned order dated 4.2.2010. The High Court directed (i) the Trust to re- advertise the proposed sale of the said property; (ii) the Charity Commissioner to consider the further offers, if any, received in that behalf; and (iii) that if no further offers were received,convey the property to the first respondent for a consideration of Rs.Five crores. The said order was not stayed by this Court.

2. At an auction held by the Joint Charity Commissioner, in pursuance of the said order of the High Court, M/s. Rainbow Realtors (P) Ltd. was the highest bidder, its bid being Rs.6,70,25,000/-. This Court on 30.8.2010 clarified that as there was no stay by this Court, the Joint Charity Commissioner may proceed, subject to the final result in this petition. On 19.10.2010, the petitioner made a submission before the Court that it was willing to make a better offer. Therefore, this Court, by order dated 9.10.2010, directed an open auction in Court on 9.11.2010. On 9.11.2010, this Court held an open auction in which the petitioner and M/s. Rainbow Realtors (P) Ltd. participated. The first respondent stated that it was no longer interested to buy the property. At the said auction, the petitioner made the highest bid of Rs.20.50 crores (Rupees Twenty Crores and Fifty Lakhs) which was accepted by this Court and the petitioner was permitted to deposit the balance of Rs.15.50 crores (after deducting rupees five crores already deposited by it in pursuance of the order dated 19.10.2010) with the Registrar General of the Bombay High Court within eight weeks. In view of the acceptance of the bid of the petitioner, the sum of Rupees five crores deposited

by M/s. Rainbow Realtors Pvt. Ltd. (who was the highest bidder before the Joint Charity Commissioner) was ordered to be refunded with accrued interest.

3. When the matter came up today, the petitioner submitted that it has deposited the balance sale price of Rs.15.50 crores with the Registrar, Bombay High Court on 4.1.2011 and in proof of it produced a xerox copy of the demand draft dated 3.1.2011 (issued by Corporation Bank, Pune Main Branch on its Mumbai Service Branch) and the receipt issued by the High Court.

4. In view of the above, this Special Leave Petition (challenging the direction of the High Court for re-sale) is rendered infructuous. However, in view of the subsequent events, it is necessary to record the following consequential directions:

“(i) In view of the fresh auction sale on 9.11.2010, the challenge to the impugned order has now become infructuous. The impugned order of the High Court dated 4.2.2010 setting aside the acceptance of the proposal by the second respondent for the sale of the property to the petitioner at Rs.1,26,09,000/-, stands affirmed. Having regard to the subsequent events, whereby the property has been purchased by the petitioner itself at a price of Rs.20.50 crores as against the original price of Rs.1,26,09,000/-, this special leave petition is disposed of as no longer surviving for consideration.

(ii) The sale in favour of M/s. Rainbow Realtors (P) Ltd. for Rs.6,70,25,000/- is not confirmed.

(iii) The amount deposited by the petitioner with the High Court (Rs.5 crores plus Rs.15.5 crores) shall be released to the second respondent-Trust which will deal with the same in accordance with further directions of the jurisdictional Joint Charity Commissioner in regard to investment thereof.

(iv) The permission under Section 36 of the Bombay Trust Act shall be deemed to have been granted for the sale in favour of petitioner for a consideration of Rs.20.5 crores.

(v) Subject to the petitioner paying stamp duty or making available the stamp papers and meeting other expenses of sale and completing the formalities, the second respondent Trust shall execute the sale deed in favour of the petitioner within two months.

(vi) If any other amount (other than Rs.20.5 crores) had been paid earlier by the petitioner to the second respondent-Trust, it shall be refunded by the Trust, to the petitioner.”

5. The special leave petition is disposed of accordingly.

Re: Contempt Notice

6. This Court, by order dated 28.9.2010, has directed issue of a notice to the petitioner and its partners Joharsingh Sarwarsingh Malhotra to show cause why proceedings for contempt should not be initiated against them for having lodging a complaint dated 20.8.2010 with the Charity Commissioner, Maharashtra and Registrar General of High Court of Bombay against the Joint Charity Commissioner in regard to the confidential report dated 19.5.2010 submitted by him to this Court.

7. The petitioner and its partner have filed an affidavit tendering an unconditional apology on 26.10.2010. On the facts and circumstances, the said apology is accepted and the said notice is discharged and closed.