

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

WEDNESDAY ,THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION NOS: 32675 OF 2012 & 18163 OF 2019

WP NO: 32675 OF 2012

Between:

M/s. MADHUCON PROPERTIES LTD., A Company Incorporated under the Companies Act having its Corporate Office: Madhucon House, Plot No. 1129/A, Road No. 36, Hitech City Road, Jubilee Hills, Hyderabad. Represented by its authorized signatory Sri. KammaSrinivas,Rax, S/o. Sri KammaNageshwarRao,Aged 40 years,

...PETITIONER

AND

1. **M/s.Hyderabad Metropolitan Development Authority,** (Formerly known as Hyderabad Urban Development Authority) Rep : By its Vice Chairman,Greenlands , Begumpet , Hyderabad.
2. The **State of Telangana,** Represented By its Secretary, Municipal Administration and Urban Development Department , Secretariat , Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ of Mandamus of any other appropriate Writ, declaring the action of the Respondent No. 1 in not accepting the balance bid amount of Rs. 17,21,31,000/- so as handover the Plot No.3 Site No.1 admeasuring 5.706 Acres of Golden Mile Project in Sy.No.s 100, 114, 116 and 117 of Kokapet Village, Rajendranagar Mandal, R.R. District by executing a registered sale deed in favour of the Petitioner Company as illegal and arbitrary and in violation of Articles - 14, 19 and 300-A of Constitution of India and consequently direct the Respondents No. 1 and 2 to receiver the balance bit amount of Rs.17,21,31,000/- and to hand over the said property in favour of the Petitioner company by executing a registered sale deed in the interests of justice under the circumstances of the case.

(CT and prayer amended as per C.O. dt. 15/4/19 in IA.2/19 & IA 1/19.)

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IA NO: 46122 OF 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to the refund Rs. 34,42,62,000.00 Ps. To the Petitioner together with interest thereon @ 24% per annum from the date of receipt of amount till the date of payment towards plot No.3 of Golden Mile Project, Kokapet village, Ranga Reddy Dist (the land situated in Sy. Nos. 100,114,116 and 117 of Kokapet Village, Ranga Reddy Dist)

Counsel for the Petitioner WP's: SRI. SRINIVAS VELAGAPUDI

Counsel for the Respondent No. 1 in both WPs: SRI. Y. RAMA RAO, SC FOR HMDA

Counsel for the Respondent No. 2 in both WPs: GP FOR MUNICIPAL ADMINISTRATION & URBAN DEVELOPEMNT

WP NO: 18163 OF 2019

Between:

M/s. Soma Enterprise Limited, A company incorporated under the Companies Act, 1956 Having its registered office at. Soma Heights, 3, Siddivinayak Society, Karve Road, Pune 411038 IN Represented by its authorised signatory, Mr. B. Bhaskar Rao, Son of Late Mr. B. Surajah, Aged 54 years, Working as General Manager of Soma Enterprises Limited, R/o, 2, Avenue-4, Banjara Hills, Hyderabad - 500 034

...PETITIONER

AND

1. M/s. Hyderabad Metropolitan Development Authority and Another, (Formerly known as Hyderabad Urban Development Authority) Represented by its Vice-Chairman, Greenlands, Begumpet, Hyderabad.
2. State of Telangana, Represented by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass a writ, order or direction, more particularly in the nature of a writ of mandamus, declaring the actions of the Respondents in not taking further necessary steps for conveyance of all rights of land in Plot No. 3, Site No. III situated in Survey Nos. 100, 109, 114, 116, 117 and 147, Golden Mile Project, Kokapet village, Rajendranagar Mandal, Ranga Reddy District admeasuring 3.083 Acres including by accepting the balance amount of Rs. 8,95,30,320 (Rupees Eight Crores Ninety Five Lakhs Thirty

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Thousand Three^{hundred & Twenty} as auctioned in favour of the Petitioner and as represented previously as unlawful, unconstitutional, ultra-vires the doctrine of legitimate expectation and further direct the Respondents to take all appropriate steps for effective conveyance of the rights in the said land in favour of the Petitioner including executing registered sale deeds.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to not alienate or create any third party interests on the said Plot No. 3, Site No. III situated in Survey Nos. 100, 109, 114, 116, 117 and 147, Golden Mile Project, Kokapet village, Rajendranagar Mandal, Ranga Reddy District admeasuring Acres 3.083 (Property) which was provisionally allotted to the Petitioner herein

Counsel for the Petitioner in both WPs: SRI. S. NIRANJAN REDDY FOR

SRI. DUVVA PAVAN KUMAR

**Counsel for the Respondent No. 1 in both WPs: SRI. Y. RAMA RAO, SC
FOR HMDA**

**Counsel for the Respondent No. 2 in both WPs: GP FOR MUNICIPAL
ADMINISTRATION & URBAN DEVELOPEMNT**

The Court made the following:

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition Nos.32675 of 2012 and 18163 of 2019

COMMON ORDER:

Since the issue involved in both these Writ Petitions are one and the same, they are being heard together and disposed of by way of this Common Order

2. W.P.No.32675 of 2012

Initially, this Writ Petition is filed seeking writ of mandamus declaring the action of the respondents in not considering the request of the petitioner for refund of Rs.34,42,62,000/- together with interest in respect of the auction of plot No.3 of Golden Mile Project, Kokapet Village, Hyderabad (for short 'the subject property') as illegal and arbitrary and consequently to direct the respondents to refund the money of the petitioner with interest @ 24% p.a or alternatively to direct the respondents to allot the equivalent land in the nearby vicinity of Kokapet village or Kondapur or Madhapur Village.

3. W.P.No.18163 of 2019

This Writ Petition is filed seeking writ of mandamus declaring the action of the respondents in not taking further necessary steps for conveyance of all rights of land in Plot No.3, Site No.III, situated in Sy.Nos.100, 109, 114, 116, 117 and 147, Golden Mile Project, Kokapet Vilage, Rajendranagar Mandal, Ranga Reddy District admeasuring Acs.3.083 (for

short 'the subject property') by accepting the balance amount of Rs.8,95,30,320/- as auctioned in favor of the petitioner as illegal and arbitrary and sought for consequential directions.

4. Since the issue in both these writ petitions pertains to registration of the subject property, the facts in W.P.No.32675 of 2012 are considered for disposal of both these writ petitions.

The facts in brief are that the petitioner is a group company of M/s.Madhucon Projects Ltd., a leading Infrastructure Company in India, engaged in the real estate business and development of properties. The 1st respondent is a statutory authority constituted under the A.P.Urban Area Development Act, 1975 (for short 'the Act'). Under Section 34 of the Act, the 2nd respondent has got the power to issue directions to the 1st respondent, which is bound to follow the same in the course of discharge of its statutory duties under the Act.

5. While so, the respondents have conducted an auction of plots located at Kokapet village, Ranga Reddy District under the scheme of 'Golden Mile Project'. The petitioner participated in the auction conducted by the 1st respondent on 20.07.2006, after complying with the formalities, in respect of plot No.3 of Site No.1, situated at Kokapet Village, Ranga Reddy District under the scheme of 'Golden Mile Project' and stood as highest bidder at a bid amount of

Rs.51,63,93,000/- in respect of the subject property and also paid an amount of Rs.2.00 Crores towards Earnest Money Deposit and also expressed its intention to pay the balance amount in installments and paid 1st installment of Rs.15,21,31,000/- on 26.07.2006 and 2nd installment of Rs.17,21,31,000/- on 09.08.2006. While things stood thus, the petitioner came to know about filing of W.P.No.14439 of 2006 by one Mr.K.S.B.Ali claiming that all the lands of Kokapet Village patta lands belonging to the legal heirs of Nawab Nusrat Jung Bahadur and that the State or the 1st respondent had no authority to put the said lands for auction. The said writ petition was dismissed on 14.07.2006. Aggrieved by the same, W.A.No.887 of 2006 was preferred before the Division Bench of this Court. During the pendency of the said Writ Appeal, the highest bidders were impleaded as parties and have requested the Hon'ble Division Bench to refund the money since the title dispute between the said K.S.B.Ali and the respondents would consume indefinite time. But the request of the petitioner was not dealt by the Division Bench of this Court and the Writ Appeal was dismissed on 20.10.2007. Aggrieved thereby, said K.S.B.Ali preferred SLP (Civil) No.23392 of 2007 before the Hon'ble Supreme Court and the same was disposed of granting leave to institute Civil Suit. The likelihood of title dispute being again brought into light by the said K.S.B.Ali is not ruled out,

the petitioner cannot, any longer trust the respondents and proceed towards compliance of the terms and conditions of the auction and sought for refund of the amount of Rs. Rs.32,42,62,000/- together with interest.

6. Subsequently, the petitioner filed I.A.Nos.1 & 2 of 2019 seeking amendment of the prayer and cause title and this Court vide order dated 15.04.2019 ordered the same, wherein the petitioner sought for writ of mandamus declaring the action of the respondent No.1 in not accepting the balance bid amount of Rs.17,21,31,000/- so as to handover the Plot No.3, site No.1 admeasuring Acs.5,706 of Golden Mile Project in Sy.Nos.100, 114, 116 and 117 of Kokapet village, Rajendranagar Mandal, R.R.District by executing registered sale deed in favour of the petitioner company, as illegal and arbitrary and for consequential direction to the respondents 1 and 2 to receive the balance bid amount and to handover the subject property in favour of the petitioner.

7. Counter affidavit is filed by the 1st respondent denying the averments in the affidavit filed in support of the Writ Petition while admitting the conducting of auction in respect of the subject property and the petitioner became the highest bidder and also with regard to payment of EMD along with two installments i.e., Rs.34,42,62,000/-. It is asserted that there is a delay in executing sale deeds in favour of highest bidders, but sale deeds were executed in favour of eight

highest bidders of Golden Mile Project covering 11 plots during the year 2019, as per the Judgment of the Hon'ble Supreme Court on 08.01.2019. It is also asserted that the SLPs filed by Mr.K.S.B.Ali and legal heirs, who claimed title over the land of Kokapet village was dismissed by the Hon'ble High Court on 04.10.2017 in SLP (C) Nos.18755-56 of 2013. Since the petitioner filed this writ petition claiming refund of Rs.34,42,62,000/-, the registration could not be made in its favour. The case of title issue filed by Mr.K.S.B.Ali was ordered by the Hon'ble Supreme Court in favour of the Government and the case of refund of the amount filed by the highest bidders i.e., M/s.IBC Knowledge & seven others excluding M/s.Madhucon Properties and M/s.Soma Enterprises also decided by the Hon'ble Supreme Court on 08.01.2019 with certain directions and accordingly, registrations were executed in their favour in the year 2019, after remitting the amounts which were due from them. The petitioner has not approached the Hon'ble Supreme Court on par with other bidders, but pursuing the remedy in this Court for refund of the amount. Since the petitioner has not paid 3rd installment, thereby he defaulted the tender conditions, as such, he cannot claim any relief in this writ petition and sought for dismissal of the writ petition.

8. Heard Sri S.Niranjan Reddy, learned Senior Counsel appearing for Sri Duvva Pavan Kumar, learned counsel for

the petitioner in W.P.No.18163 of 2019 and Sri Velagapudi Srinivas, learned counsel for the petitioner in W.P.No.32675 of 2012 and Sri Y.Rama Rao, learned Standing Counsel for the 1st respondent-Hyderabad Metropolitan Development Authority.

9. Sri S.Niranjan Reddy, learned Senior Counsel as well as Sri Srinivas Velagapudi, learned counsel for the petitioners submit that the petitioners are highest bidders/auction purchasers in the auction conducted by the 1st respondent in the year 2006 in respect of the subject properties in both the writ petitions. They submit that meanwhile, litigation cropped up in respect of the title of the subject property between the respondents and the private third parties and eight out of 10 auction purchasers took the matter up to Hon'ble Supreme Court in Civil Appeal No.241 of 2019, wherein the 1st respondent-HMDA agreed for receiving the balance sale consideration amount from the eight auction purchasers and handover the land and on the consent given by both the parties, the said SLP was disposed of granting eight weeks time to the auction purchasers, who are appellants therein, for payment of balance sale consideration. They submit that the petitioners are also stand on the same footing and that there is no fault on the part of the petitioners in making payment. They further submit that it is only

because of litigation pending between the HMDA and the private parties, the petitioners could not make payment.

10. On the other hand, Sri Y.Rama Rao, learned Standing Counsel for the 1st respondent did not dispute the fact that the HMDA agreed for receiving the amount and handover the land in respect of eight auction purchasers. But he submits that since the petitioners are not parties before the Hon'ble Supreme Court on par with eight other successful bidders, they are liable to pay interest on the dues, to be payable by them towards balance sale consideration.

11. In this case, it is an admitted that both the petitioners participated in the auction conducted by the 1st respondent in respect of subject properties and became successful bidders and also paid substantial amounts towards part of the sale consideration in the year 2006, as enumerated in the affidavits filed in support of their writ petitions. It is also an admitted fact that there was a title dispute between the respondents and one Mr.K.S.B.Ali in respect of the subject properties, which culminated into filing of W.P.No.14439 of 2006, which was dismissed on 13.07.2006. Writ Appeal No.887 of 2006 filed against the same was also dismissed by this Court on 26.10.2007. Mr.K.S.B.Ali also filed SLP (C) No.18755-56 of 2013 before the Hon'ble Supreme Court, which was also dismissed on 04.10.2017. According to the 1st respondent, nine highest bidders have approached the

Hon'ble Supreme Court. The Hon'ble Supreme Court disposed of Civil Appeal No.241 of 2019 arising out of SLP (C) No.10946 of 2013, Civil Appeal No.242/2019 @ SLP (C) No.10944 of 2013, Civil Appeal Nos.244-245/2019 arising out of SLP (C) Nos.11145-11146/2013, Civil Appeal No.246 of 2019 arising out of SLP (C).No.12134/2013, Civil Appeal No.247/2019 arising out of S.L.P.(C) No.15628/2013 and Civil Appeal No.243/2019 arising out of S.L.P.(C) No.11048/2013, which were disposed of on 08.01.2019 directing the appellants there in, who are highest bidders to pay the balance amount of sale consideration and the 1st respondent-HMDA was directed to allot lands in respect of their plots, in which they were successful bidders.

12. A perusal of the aforesaid orders of the Hon'ble Supreme Court dated 08.01.2019 go to show that order was granted in favour of eight auction purchasers, who were appellants therein, for the payment of balance sale consideration and handing over of the possession of the land by the 1st respondent-HMDA. The learned Standing Counsel for the 1st respondent-HMDA, on instructions, could not dispute the same and did not seriously oppose for receiving the balance sale consideration from the petitioners on par with the other auction purchasers and handing over the subject properties to the petitioners, but, however, insisted for payment of interest on the balance sale consideration to be paid by the

petitioners, since the cost of the subject properties have increased manifold from the date of the auction.

13. Learned counsel for the petitioners submits that the petitioners participated in the auction along with the eight auction purchasers before the Hon'ble Supreme Court, and the 1st respondent-HMDA has not demanded any interest from the appellants therein, as such, there cannot be any discrimination with regard to payment of balance sale consideration and their case should be considered on par with the appellants in Civil Appeal Nos.241 of 2019 & batch.

14. It is pertinent to note that the petitioners have paid substantial part of sale consideration in the year 2006 itself, by complying with the terms and conditions of payment of installments and their amounts are lying with respondent authorities. Litigation in respect of the subject property is pending till the year 2019 between the 1st respondent and third parties, which cannot be attributed to the petitioners for delay in payment of the balance sale consideration. Even according to the learned Standing Counsel for HMDA, they have implemented the orders of the Hon'ble Supreme Court in Civil Appeal Nos.241 of 2019 and executed registered sale deeds in favour of appellants therein in the year 2019, who are successful bidders, by receiving balance sale consideration. Therefore, petitioners cannot be faulted for delay in payment of balance sale consideration. Since

litigation is pending till the year 2019 in respect of the subject property, which cannot be attributed to the petitioners, they cannot be demanded to pay interest on the balance sale consideration, by the 1st respondent-HMDA.

In view of above facts and circumstances, both these Writ Petitions are disposed of in terms of the order of the Hon'ble Supreme Court in Civil Appeal No.241 of 2019 & batch dated 08.01.2019, granting eight weeks time to the petitioners to make the balance consideration. On such payment, the subject land shall be earmarked and handover to the petitioners, in any case, within a period of four weeks thereafter. It is open for the 1st respondent-HMDA to issue demand notice regarding payment of balance sale consideration, to the petitioners, on par with the other auction purchasers.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these Writ Petitions, shall stand closed.

SD/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Vice-Chairman, M/s. Hyderabad Metropolitan Development Authority and Another, (Formerly known as Hyderabad Urban Development Authority) Greenlands, Begumpet, Hyderabad.
2. The Principal Secretary, Municipal Administration and Urban Development Department, State of Telangana, Secretariat, Hyderabad
3. One CC to Sri. Srinivas Velagapudi, Advocate [OPUC]
4. One CC to Sri. Duvva Pavan Kumar, Advocate [OPUC]
5. One CC to Sri. Y.Rama Rao, SC for HMDA [OPUC]
6. Two CCs to GP for Municipal Administration And Urban Development, High Court for the State of Telangana, [OUT]
7. Two CD Copies

PM



HIGH COURT

ARR,J

DATED:30/09/2020

COMMON ORDER

WP.No.32675 of 2012 & 18163 OF 2019



Disposing of the WPs
Without costs.

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MMA
23/10/2020