



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Special Appeal Writ No. 760/2026

CNR: RJHC020515602026 | URN: SAW / 1594U / 2026

1. Rajasthan Housing Board, Through Housing Commissioner, Jaipur, Rajasthan.
2. Deputy Commissioner, Circle II, Rajasthan Housing Board, New Sanganer Road, Adjoining SFS, Sector 12, Mansarovar, Jaipur (Rajasthan) 302020

----Appellants

Versus

1. Sagar Mal Handala S/o Ishwar Ram Handala, Aged About 35 Years, R/o Plot No. 86, 87, 88, Lata Nagar, Opp Power House, Kalwar Road, Jaipur – 302012.
2. State Of Rajasthan, Through Principal Secretary, Urban Development And Housing Department, Government Secretariat, Jaipur (Rajasthan)

----Respondent

----Proforma Respondent

For Appellant(s) : Mr. Ajay Shukla with
Mr. Raghav Sharma

For Respondent(s) : Dr. Vibhuti Bhushan Sharma,
Mr. Sanjay Sharma,
Ms. Anindya Gupta,
Mr. Harshit Tiwari,
Ms. Suman Kalal

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BHUWAN GOYAL**

Judgment

28/07/2026

1. This appeal assails the order dated 19th March, 2026 passed by the learned Single Judge of this Court whereby he has allowed the writ petition filed by the writ petitioner (respondent herein) and directed as under:



"21. In view of the discussion made above, this Court can safely held that the action of the respondents in cancelling the highest bid of the petitioner is per se illegal, arbitrary and unconstitutional and therefore, the impugned order dated 13.12.2022 passed by the Dy. Housing Commissioner, Cirlce-II, Jaipur, deserves to be quashed and set aside.

22. Accordingly, the writ petition is allowed. The order dated 13.12.2022 passed by the Dy. Housing Commissioner, Cirlce-II, Jaipur of cancelling the highest bid of the petitioner is quashed and set aside and the respondents are directed to accept the highest bid of the petitioner for auction of commercial Plot No.26, V.T. Road, Mansarovar, in furtherance of the auction held between 21st September 2022 to 23rd September 2022.

23. The respondents shall issue a confirmation of auction-cum-demand letter to the petitioner within a period of 60 (sixty) days. If any amount as deposited by the petitioner earlier and refunded to the petitioner, that shall also be deposited by the petitioner along-with the remaining bid amount after issuance of confirmation of auction-cum-demand letter by the respondents in favour of the petitioner."

2. Learned counsel for the appellants Rajasthan Housing Board submits that the learned Single Judge has erred in holding that a show cause notice was mandatory before cancelling the bid for invoking the principles of natural justice and submission of a bid is only to be treated as a mere offer and NIT is merely an invitation. The administrative rejection of infirmity does not result into civil consequences and as such the principle of *audi alteram partem* would not apply. The Chairman had the right to cancel the bid and the finding of the learned Single Judge is erroneous. It cannot be said that the Board of Directors was a mere formality. Counsel for the appellants submits that the cancellation of the bid was with the purpose to achieve more revenue for the Housing Board.

3. In order to appreciate the controversy, it would be appropriate to notice on facts, which have come on record and are



not denied by the appellant. The Rajasthan Housing Board had put up on auction a commercial plot/marriage garden ad-measuring 3004.10 square meter situated at Plot No.26, VT Road, Mansarovar, Jaipur with minimum bid of Rs.97,000/- per square meter. The e-auction for the said plot was conducted online and the writ petitioner participated in the bid and deposited 2% of the bid value i.e. Rs.58,28,000/- as earnest money deposit (EMD). He was declared as the highest bidder in the wining bid of Rs.1,01,000/- per square meter held between 21st to 23rd September, 2022. As per the applicable rules, he deposited the remaining amount of Rs.3,96,84,115/- totaling to 15% of the total bid within 72 hours as required. Instead of confirming the bid, the amount was deposited back in the writ petitioner's account on 20th December, 2022 without giving any reason after three months. Upon sending e-mails, the same remained unanswered. It is stated by the writ petitioner that after he physically made a visit to the Office of the Rajasthan Housing Board, he was provided with office order dated 13th December, 2022 on 27th January, 2023 declaring his bid as non-competitive. Thereafter, the writ petitioner filed an RTI application, upon which it was revealed that the sanction for petitioner's bid was refused merely on the ground of parity with the bid received for Plot No.21, VT Road, Mansarovar, Jaipur, where the auction had been conducted between 11th to 13th July, 2022 for Rs.1,07,000/- per square meter. Being aggrieved, the writ petition was filed before the High Court.

4. Upon service of notice, the appellants-respondents filed their reply and they placed on record the note-sheet relating to



the auction and learned counsel for the appellants has invited our attention to the note which reflects that while the file was put up for sanction of the bid without there being objection from the Accountant or the Financial Advisor, the Minister of the Urban Development and Housing Department has directed at Note No.24 to re-auction the plot without giving any reason on the file. We, therefore, called for the original record.

5. It appears that after the Minister had cancelled the bid, the Financial Officers and Advisors had pointed out that the power for cancelling of auction was only available with the Board of Directors, whereafter a note had been put that the Minister has cancelled the bid on the ground that another larger plot in the same vicinity had been put up for bid of Rs.1,07,000/- per square meter. Thus, the said plot was to offer a higher bid. Note No.33 mentions that the Chairman had cancelled the bid while the powers are available with the Board of Directors. Thereafter, a meeting of the Board was called and it was decided that the approval shall be taken, whereafter further proceedings of cancellation shall be taken up, which was approved by the Chairman, who was the Minister of the Urban Development and Housing Department and the Rajasthan Housing Board at that time. The learned Single Judge has noticed in his detailed order and has held that every action of a Government or its Undertaking or Board must be rational, having a sound reasoning and if it is adverse to any person then the same must be undertaken after allowing the opportunity of hearing to the other side so as to follow the principles of natural justice and therefore, the Rajasthan Housing Board was held to be under an obligation to issue notice



to the writ petitioner with regard to opportunity of hearing before passing of an order of cancellation.

6. We also notice that the Chairman had no authority to cancel the bid as per the Rules and the auction committee had fixed the minimum price of the plot at a higher rate than the rate of the Plot No.21, VT Road, Mansarovar, which is also existing in the same commercial area. The minimum bid for the said plot was Rs.89,500/-, but the highest bid was Rs.1,07,000/- per square meter. The bid price was finalized on 13th July, 2022. The minimum bid value of the property in question was fixed at Rs.97,000/- per square meter. The same, therefore, could have been increased upto the minimum price of the earlier bid, but the appellant Rajasthan Housing Board had not done so at the relevant time. After the respondent-writ petitioner had been declared successful, curiously enough the Minister cancelled the bid without approval of the Housing Board. The meeting of the Housing Board was convened much later and *post facto* approval of the decision of the Minister had been taken by the Members of the Housing Board. Such approach adopted by the Minister is apparently quite dubious. The Board of Directors has merely followed the directions of the Chairman and a pointed query was raised from the learned counsel for the appellants Housing Board as to why no reason was mentioned by the Minister while cancelling the auction and the reasons have been assigned later on in the meeting of the Housing Board.

7. In the case of **Union Of India and Ors. vs. E.G. Nambudiri**¹, Hon'ble Supreme Court has held that although the

¹ (1991) 3 SCC 38





reasons might not be mentioned in the order, however, the reasons ought to be available on record at the time of taking the decision. However, we find that no such reason has been assigned by the Minister while cancelling the auction and putting the property for re-auction.

8. The Hon'ble Supreme Court in **Golden Food Products India vs. State of Uttar Pradesh & Ors.**² has examined similar case and held that the cancellation of highest bid, without there being any illegality committed during the course of auction, was found to be unjustified.

9. In **K. Kumara Gupta vs. Sri Markendaya and Sri Omkareswara Swamy Temple and Ors.**³, it was held by Hon'ble Supreme Court that unless and until it was found that there was any material irregularity and/or illegality in holding the public auction and/or auction/sale was vitiated by any fraud or collusion, it is not open to set aside the auction or sale in favour of the highest bidder on the basis of some representations made by third parties, who did not even participate in the auction proceedings and did not make any offer. The Hon'ble Supreme Court has observed as under:

"17. The sale pursuant to the public auction can be set aside in an eventuality where it is found on the basis of material on record that the property had been sold away at a throw away price and/or on a wholly inadequate consideration because of the fraud and/or collusion and/or after any material irregularity and/or illegality is found in conducting/holding the public auction. After the public auction is held and the highest bid is received and the property is sold in a public auction in favour of a highest bidder, such a sale cannot be set aside on the basis of some offer made by third parties subsequently and that too when they did not participate in the auction proceedings and made any offer and/or the offer is made only for the sake of

2 2026 INSC 22

3 (2022) 5 SCC 710



making it and without any serious intent. In the present case, as observed hereinabove, though Shri Jagat Kumar immediately after finalising the auction stated that he is ready and willing to pay a higher price, however, subsequently, he backed out. If the auction/sale pursuant to the public auction is set aside on the basis of the such frivolous and irresponsible representations made by such persons then the sanctity of a public auction would be frustrated and the rights of a genuine bidder would be adversely affected.

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29. *The submission on behalf of the respondents that as on today the value of the property is Rs.15 crores and therefore, this Court may not interfere with the impugned judgment and order passed by the Division Bench of the High Court is concerned, the aforesaid cannot be accepted. After a period of 20-23 years, the prices of lands are bound to increase. The auction was conducted and held in the year 1998 and was sold in favour of the appellant then on payment of the full sale consideration as per the highest bid offered by him. Therefore, the valuation as on the date of auction is the relevant consideration and not the value after so many years and over two decades after conducting the auction and confirming the sale."*

10. Learned counsel for the appellants has relied upon another judgment of **Om Sakthi Sekar vs. V. Sukumar and Others⁴** in support of their contention that a right exists with the appellants to cancel the bid of the highest bidder. However, we find that the case was on different facts altogether where DRT proceedings had been initiated and the auction process was on the basis of the recovery certificate. It was not a case of the auction proceedings having been again cancelled but it was a case of recovery proceedings which were under challenge. The High Court had not set aside the auction sale and had only asked the DRT to examine the valuation which had been upheld by Hon'ble Supreme Court.

11. In our opinion, once an e-auction is conducted, which is faceless and there is no illegality committed during the course of auction, we agree with the view taken by the learned Single Judge





that the Board of Directors could not have taken a decision at the behest of the Minister and it was a case where the Minister had already taken a decision for cancelling the auction and he himself was the Chairman of the Board of Directors while the other Members were all subordinate to him. The decision of the Housing Board was, thus, a paper formality. The reasons being cited would also not said to be legal and justified. At the same time, we notice that total Rs.4,55,12,115/- had already been deposited by the auction purchaser and the bid was also over and above the minimum bid price and therefore, the same cannot be said to be non-competitive. There was no occasion to compare the bid with another bid of different plot, more so, as the minimum price fixed for that plot was lesser than that fixed for the plot in question. The decision, thus, cannot be said to be fair and transparent, but is in culpable exercise of power of the concerned Minister, which cannot be allowed to sustain.

12. The order passed by the learned Single Judge, therefore, does not warrant any interference by us in appeal. The learned Single Judge has rightly set aside the order cancelling the highest bid of the writ petitioner. The directions issued by the learned Single Judge shall now be implemented within a period of four weeks.

13. The appeal is, accordingly, dismissed. All pending applications also stand disposed of.

(BHUWAN GOYAL),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

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