



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT VI, NEW DELHI**

**I.A/991/2023 IN IB-229/PB/2019**

*Application under Section 60(5) IBC, 2016.*

**IN THE MATTER OF:**

**Shri Ram Transport Finance Company Pvt. Ltd.**

**... Financial Creditor**

**Versus**

**M/s. Transgulf Frozen Food Containers Pvt. Ltd.**

**.... Corporate Debtor**

**AND IN THE MATTER OF:**

**UP Paints through its proprietor Mr. Himanshu Katyal**

**...APPLICANT**

**VERSUS**

**MR. MUKESH KUMAR JAIN**

**Liquidator of M/s. Transgulf Frozen Food Containers Pvt. Ltd.**

**...RESPONDENT**



**Coram:**

**Shri. Bachu Venkat Balaram Das, Member (Judicial)**

**Shri. Rahul Bhatnagar, Member (Technical)**

**Counsel for the Applicant:** Adv. Meenu Pandey

**Counsel for the Respondent:** Adv. S.K Sharma

**Order Pronounced on: 09.11.2023**

**ORDER**

**PER-RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

1. The present Application has been filed by the Applicant under Section 60(5) of the IBC, 2016 praying for the following reliefs:

- (a) To cancel the sale of the Land bearing Khata No. 65, Khasra No,2588, area measuring 0.270 hectare or 1 Bigha, 1 Biswa, 6 Biswani (Pukkhta), situated in the Revenue Estate of village Dasna, Pargana Dasna, Tehsil & distt. Ghaziabad (U.P).*
- (b) To refund the entire sale amount of the above said Land so paid by the petitioner.*
- (c) Pass any other and further order which may deem fit and proper in the facts and circumstances of the case.*



**2.** The brief facts as averred by the Applicant for filing the present Application are as follows:

- i. That the Respondent/Liquidator had published an advertisement 20.10.2022 in "Financial Express" and "Jansatta" Newspapers for E-auction of agriculture Land bearing Khata No. 65, Khasra No. 2588, area measuring 0.270 Hectare or 1 Bigha, 1 Biswas, 6 Biswani (pukhta), situated in the Revenue Estate of Village Dasna, Pargana Dasna, Tehsil & Dist. Ghaziabad, U.P. for an amount of Rs. 1,24,00,000/- (Rupees One Crore Twenty-Four Lakh).
- ii. That after the successful bid by the Applicant/Auction Purchaser, the above said Land was sold in favor of the applicant UP Paint on 22.11.2022 and as per advertisement the auction Purchaser had paid the entire amount of the property i.e. Rs. 1,24,00,000.
- iii. That the Auction Purchaser noted in the Sale Certificate dated 06.12.2022 issued by the Liquidator, that the status of the land was that a pipe line has been laid down under the property in question and there is prohibition for planting, boring, digging and construction of building within 30 meters.



- iv. That the Respondent intentionally never supplied the documents pertaining to the above said land.
- v. That the above said property is useless for the Auction Purchaser and after paying the entire sale value, the Applicant is under huge loss.
- vi. That the act of the Respondent is not fair and justified for not disclosing the status of the Land in question at the stage of E-auction/advertisement and hiding the fact that there is underground Gas pipe line.

**3. The Respondent has filed its reply stating as follows:**

- i. That the Respondent had issued a public notice dated 20.10.2022 for the auction of the land measuring 0.27 hectare (Agriculture Land) for the reserve price of Rs, 1,23,00,000/- (Rupees One Crore Twenty Three lakh) and Company Vehicles including Trucks for reserve price of Rs. 77,00,000/- (Rupees Seventy Seven Lakh) for conducting of the Bid on 22.11.2022 wherein, also the opportunity was given to the bidders for the inspection on 14.11.2022.



- ii. That the Applicant had submitted the documents accepting the terms and had ample time for the inspection of the said Land. The Applicant has not made any efforts or performed a due diligence or inspected the land before bidding and now can't take an excuse for his negligence. There is nothing concealed on the part of the Respondent each and every detail was available in the public records and conveyed to the Applicant.
  - iii. That the Applicant was well aware of the fact that the said land is agricultural land and is fit for doing the agriculture activities.
  - iv. That the Auction sale was done after wide publicity through the publication in the newspaper, then setting aside the sale after its confirmation will create huge problems as the Sale Certificate was issued on 06.12.2022.
  - v. That the E-auction of property in question has been held on "As is whereas basis", "As is what is basis".
- 4.** We have heard the submissions made by both the parties. The present Application has been filed by the Applicant seeking to cancel the sale of the Land bearing Khata No. 65, Khasra No,2588, area measuring 0.270 hectare or 1 Bigha, 1 Biswa, 6 Biswani



(Pukkhta), situated in the Revenue Estate of village Dasna, Pargana Dasna, Tehsil & distt. Ghaziabad (U.P). and to refund the entire sale amount of the above said Land so paid by the Applicant on the ground that the Respondent had concealed information with respect to the land. The Respondent has denied any such allegations and has stated that the Applicant was duty bound to inspect the land before submitting its bid to buy the land.

- 5.** The sale notice dated 20.10.2022 clearly states as follows:
- “interested applicants may refer to the details of the auction in complete e-auction process document”. Clause 6.2 of the complete e-auction process document dated 20.10.2022 states that the E-auction of property in question has been held on "As is where as basis", "As is what is basis". Further, Clause 6.3 of the said document states that it shall be the responsibility of the bidders to inspect the properties and satisfy themselves. The relevant extract of the complete e-auction process document is reproduced below:



**6.3. Inspection of the Assets Buyers Beware:**

- a. Bidders are requested to inspect the Properties and satisfy themselves regarding the area, physical nature, condition, extent etc., of the Properties prior to submission of their online bids. All costs incurred in connection with such inspection shall be borne by the Bidders.
- b. Bidders advised / cautioned to verify with the sub-registrar's office as well as obtain and analyze the revenue records with respect to the Properties and to satisfy themselves regarding the existence, title, nature, description, condition, existing encumbrances, liens, charges, statutory dues, etc., over the Properties before submitting their bids.
- c. Bidders are advised/cautioned to know the rules and regulations stipulated in the SEZ Act 2005.
- d. The Agency / the Liquidator shall not be responsible for rendering any assistance to the Bidder in connection with its independent inspection of the Properties.
- e. Bidders are bound by the principle of Caveat Emptor (buyer beware)
- f. Bidders are requested to submit their bids only after conducting their own independent due diligence exercise with respect to their title to the properties.

**6.** It was clearly mentioned in E-Auction Notice that the Intending Bidders should make their own independent inquiries regarding the existence, title, nature, description, condition, existing encumbrances, etc. over the property prior to submitting their bid. Further, Clause 6.3.e states that the Bidders are bound by the principle of Caveat Emptor, i.e., buyer beware. The said terms were duly acknowledged by Applicant by submitting the bid application form dated 21.11.2022. Hence, the Applicant cannot at this stage seek cancellation of sale after accepting the terms and conditions as stated above. The Applicant should have carried



out the inspection of the land before submitting the bid for purchase of the land. Therefore, we find no merit in the present Application.

- 7.** IA/991/2023 stands dismissed and accordingly disposed off in terms of the above order.

Let a copy of the order be served to parties.

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|---------------------------|-----------------------------------|
| <b>SD/-</b>               | <b>SD/-</b>                       |
| <b>(RAHUL BHATNAGAR)</b>  | <b>(BACHU VENKAT BALARAM DAS)</b> |
| <b>MEMBER (TECHNICAL)</b> | <b>MEMBER(JUDICIAL)</b>           |