



2026:DHC:5506-DB



\$~19

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 07.07.2026

+ EFA(OS) 5/2026, CM APPL. 33660/2026 & CM APPL. 38765/2026

SUCHITRA RAY & ANR. Appellants

Through: Mr. Vijendra Kumar Chourasia
and Mr. Nishith Srivastava,
Adv.

versus

SUMITRA SARKAR & ORS. Respondents

Through: Mr. Jitender Choudhary, Ms.
Shilpa Chauhan, Mr. Manas
Joshi and Ms. Anshita
Shrivastava Adv. for R-1 and
R-4.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

JUDGMENT

CM APPL.39318/2026 (For modification)

1. The present application has been filed during the summer vacations by the appellants before the Vacation Bench under Section 148 read with Section 151 of the Code of Civil Procedure, 1908, seeking modification of the order dated 29.05.2026 passed by this Court in the present appeal being EFA(OS) 5/2026, which arises out of the order dated 29.04.2026 passed by the learned Single Judge in an

Signature Not Verified

Signed
By: PRIYADARSHANI
Signing Date: 09.07.2026
18:28:20

EFA(OS) 5/2026

Page 1 of 11



2026:DHC:5506-DB



execution petition bearing no. EX.P. 58/2025.

2. The aforesaid order dated 29.05.2026 was passed with the consent of both the sides and is reproduced as below:-

“1. Heard learned counsel for the parties.

2. With the consent of the parties the following order is passed.

3. The appellants have approached this Court with a proposal along with Mr. Bharat Chetal, s/o Late Sh. P.D. Verma, who wishes to purchase the subject property for a total consideration of Rs. 21 crores (Rupees Twenty One Crores only). To show bona fide of the proposal, he is ready and willing to deposit an amount of Rs. 10 lakhs before the Registrar General of this Court by tomorrow.

4. Mr. Bharat Chetal submits that the respondents shall be paid their shares as determined by the Court from the said amount of Rs. 21 crores within a period of 30 days. It is further submitted that, meanwhile, any of the respondents who would be willing to join him in the project of the subject property, are free to approach him or the appellants.

5. The respondents have also agreed to the said proposal that in case their share is paid to them within a period of 30 days from today, they would be willing to hand over their rights in favour of the appellants/new purchaser. They further assures the Court that they would sign all required documents, on payment of their shares, as required under law for conversion of the subject property from leasehold to freehold or as per the requirement of the Municipal Authorities. However, the expenses for conversion or any other further permission shall be borne by the purchaser.



2026:DHC:5506-DB



6. *In case of failure of payment of amount to the respondents within the aforesaid period of 30 days, the amount of Rs. 10 lakhs shall be forfeited.*

7. *In the meantime, subject to the deposit of Rs. 10 lakhs before the Registrar General of this Court by tomorrow, **the execution proceedings shall remain stayed.***

8. *List on 07.07.2026 in the category of 'part-heard' matters."*

(Emphasis Supplied)

3. As per the submission of the learned counsel for the appellants, the appellants have already deposited the amount of ₹10 lakhs in the Registry of this Court on 10.06.2026 through the primary purchaser Gurleen Singh Makkar along with his associates and nominees. It is further submitted that Mr. Gurleen Singh Makkar has also arranged a demand draft of ₹1.65 crores and RTGS of ₹1.75 crores, totalling ₹3.40 crores, which have also been deposited in the Registry of this Court.

4. The appellants in this application sought extension of time for payment of balance amount of ₹10 crore 36 lakhs by a post-dated cheque of 21.08.2026, alleging ups and downs in the business, temporary liquidity bottlenecks in current commercial transactions, delay in full liquidation of institutional assets. It is stated that ultimate purchaser Gurleen Singh Makkar requires an extension of time till 21.08.2026.

5. Learned counsel appearing on behalf of respondent has stated that the amount of ₹10 lakh was deposited by Mr. Gurleen Singh



2026:DHC:5506-DB



Makkar and not by Mr. Bharat Chetal, which cannot be termed as a valid deposit in terms of order dated 29.05.2026. It is stated that the appellants have already taken sufficient time before this Court and even before the learned Single Judge, Executing Court, Local Commissioner to delay the execution of the final decree.

6. We have heard the submissions of both the sides and have perused the record. The parties are the siblings in the suit for partition. A preliminary decree was passed by the learned Single Judge on 13.12.2023 holding that there is no dispute of each party being entitled to 1/6th share in disputed property no. J- 1982, C.R. Park, New Delhi measuring 233 square yards with the construction on ground floor, first floor, second floor and third floor.

7. On 03.04.2024, the Court passed a final decree holding that the property approximately 233 square yards, is not permissible to be partitioned, as per municipal by-laws and that the parties could not arrive at any consensus inter se them for mutually dividing the property, for each party to occupy a portion, hence the Court passed a final decree for the property to be sold and for dividing the sale proceeds amongst the parties as per their respective shares.

8. Later, the appellants filed an RFA (OS) 28/2024, which was withdrawn by them. In the Execution Petition No. 58/2025, after considering all the proposals of the appellants including regarding reconstruction through a builder, the learned Single Judge passed the impugned order 29.04.2026 for taking the possession of the property from the appellants for being auctioned, which is the subject matter of the present appeal.



9. Even before this Court, the appellants proposed to sell the property through mutual negotiation and thereafter the order dated 29.05.2026 was passed. The appellants have approached along with Mr. Bharat Chetal, s/o Late Sh. P.D. Verma, who wished to purchase the property for ₹21 crores and to pay the respondents their share within 30 days and undertook to deposit the amount of ₹10 lakhs before the Registrar General of this Court by the next day, to show the bona fide of his proposal, which may be forfeited in case he fails to stand his undertaking. The respondents also consented to the said proposal and its conditions.

10. The order dated 29.05.2026 clearly records that the proposal was made by Mr. Bharat Chetal, who expressed his willingness to purchase the suit property for a total consideration of ₹21 crores and, to show the bona fides of the proposal, undertook to deposit a sum of ₹10 lakhs before the Registrar General of this Court by the following day. The order further provided that, in the event of failure to pay the respondents their respective shares within 30 days, the said amount of ₹10 lakhs would stand forfeited. The undertaking as well as the consequence of forfeiture were, therefore, expressly relatable to and binding upon Mr. Bharat Chetal alone.

11. Admittedly, no amount of ₹10 lakhs was deposited by Mr. Bharat Chetal in compliance with the undertaking recorded by this Court. Equally, neither the sale consideration of ₹21 crores was received by him within the stipulated period nor were the respondents paid their respective shares within 30 days. Instead, the present application has been filed seeking extension of time on the basis that



2026:DHC:5506-DB



one Mr. Gurleen Singh Makkar is now the proposed purchaser. The amount of ₹10 lakhs deposited much later on 10.06.2026, as also certain further amounts, have been deposited by Mr. Gurleen Singh Makkar. However, no permission was ever sought from or granted by this Court permitting substitution of Mr. Bharat Chetal by Mr. Gurleen Singh Makkar. In the absence of any such leave, the appellants could not unilaterally substitute a different purchaser and seek extension of time on his behalf.

12. The direction issued by this Court was explicit. The deposit of ₹10 lakhs was to be made by Mr. Bharat Chetal in terms of his undertaking so as to demonstrate the bona fides of his proposal to purchase the property. Such undertaking was personal to Mr. Bharat Chetal and could not be fulfilled by any other person without the leave of this Court. Consequently, the deposit made by Mr. Gurleen Singh Makkar cannot be treated as compliance with the order dated 29.05.2026.

13. A party who remains in breach of the very condition upon which the interim protection was extended to it cannot simultaneously invoke the equitable jurisdiction of this Court to seek a further indulgence in the form of extension of time for compliance with the remaining terms of that order. The relief sought in the present application is, in substance, a plea for equitable extension, and such relief cannot be countenanced, while the foundational condition of the order remains unfulfilled.

14. The ground for extension of time taken by the appellants in the application is raised on behalf of the appellants and the said Gurleen



Singh Makkar and not by Mr. Bharat Chetal who was obligated to make the deposit and is nothing but a play to delay the disposal of appeal till August, 2026.

15. In these circumstances, this Court finds no justification to modify the timelines fixed under the order dated 29.05.2026. Sufficient time had already been granted for making the compliance. The submission urged on behalf of the appellants that the delay ought to be condoned on the reasons stated and time be extended is devoid of merit and cannot be accepted.

16. Since the amount of ₹10 lakhs was admittedly not deposited by Mr. Bharat Chetal in terms of the undertaking recorded by this Court, the question of forfeiture of Rs. 10 lakhs under the order dated 29.05.2026 does not arise. The amount of ₹10 lakhs, as well as the other amounts, having been deposited by Mr. Gurleen Singh Makkar, who neither furnished the undertaking recorded by this Court nor was permitted to substitute Mr. Bharat Chetal, cannot be treated as valid deposits under the said order. The Registry is accordingly directed to refund to Mr. Gurleen Singh Makkar the sum of ₹10 lakhs as well as any other amount deposited by him pursuant to the order dated 29.05.2026, in accordance with law.

17. Accordingly, the interim stay granted by this Court is vacated.

18. For the reasons recorded above, the application is rejected and is disposed of.

EFA(OS) 5/2026

19. Turning now to the main appeal, we heard the learned counsel for the appellant. The present appeal being EFA(OS) 5/2026, has been



2026:DHC:5506-DB



preferred against the Order dated 29.04.2026 passed by the learned Single Judge in EX.P. 58/2025.

20. The preliminary decree dated 13.12.2023 declared each of the parties, being siblings, entitled to a $1/6^{\text{th}}$ share in the suit property bearing no. J-1982, C.R. Park, New Delhi, admeasuring approximately 233 square yards. The said preliminary decree was never assailed by the appellants and has attained finality. The final decree dated 03.04.2024, holding that the property is incapable of physical partition in terms of the applicable municipal bye-laws and that the parties could not arrive at any consensus for mutually dividing the property and directing that the property be sold with the sale proceeds distributed amongst the parties in accordance with their respective shares, was carried in appeal by the appellants vide RFA(OS) 28/2024, which appeal was subsequently withdrawn by the appellants vide order dated 09.08.2024. The Review thereto being Review Petition No. 645/2025 was also dismissed vide Order dated 24.12.2025. The preliminary decree and the final decree having thus attained finality inter se the parties, the same cannot be permitted to be reopened, diluted or circumvented at the stage of execution, nor can the present appeal be used as a vehicle to indirectly resist their enforcement.

21. It was only after the withdrawal of RFA(OS) 28/2024 that the appellants approached the Executing Court in EX.P. 58/2025 with successive proposals, including a proposal that the property be reconstructed through the intervention of a builder. Upon failure of the said proposal along with the other submissions made on behalf of the



2026:DHC:5506-DB



appellants, the learned Single Judge, by the impugned order dated 29.04.2026, holding that parties have not been able to reach to any consensus, there is no other option except for auction of the property and directed that possession of the property be taken from the appellants for the purpose of the same being put to auction, in furtherance of the final decree dated 03.04.2024. It is against the said order that the present appeal has been preferred.

22. It is significant to notice the manner in which the stand of the appellants has shifted at every stage of these proceedings. Before the Executing Court, the appellants projected a builder as being ready to undertake reconstruction of the property, a proposal that could not be fulfilled before the learned Single Judge and culminated in the impugned order directing that possession be taken for auction. Having failed in that attempt, the appellants, before this Court, introduced an altogether different proposal, projecting Mr. Bharat Chetal as a prospective buyer willing to purchase the property for Rs. 21 crores, on the basis of which the order dated 29.05.2026 came to be passed with the consent of the parties. When even that proposal could not be given effect to in terms of the undertaking recorded, the appellants sought to introduce yet another individual, Mr. Gurleen Singh Makkar, as the purchaser, without so much as seeking the leave of this Court for such substitution. This continuing progression, from a builder before the Executing Court, to one buyer before this Court, and thereafter to another buyer, is itself demonstrative of a pattern and reflects that the object of the appellants has never been the genuine consummation of any proposal, but the mere protraction of



2026:DHC:5506-DB



proceedings.

23. The conduct of the appellants through the pendency of the present appeal reinforces this position. The matter was adjourned on more than one occasion at the request of learned counsel for the appellants. Thereafter, upon the order dated 29.05.2026 being passed with consent, the appellants failed to comply with the undertaking recorded therein, deposited the amount of Rs. 10 lakhs belatedly and through a person other than the one named in the order, and ultimately moved the present application seeking a further extension of time up to 21.08.2026 for payment of the balance consideration. Such conduct, viewed cumulatively, does not reflect the conduct of a party genuinely endeavouring to satisfy a decree, but of a party seeking to defer, at every stage, the inevitable consequence of a decree that has long attained finality.

24. This Court has, by the order recorded above, already dismissed CM APPL. 39318/2026 filed by the appellants seeking extension of time. Once the very foundation for continuation of the interim protection stands removed, and once the preliminary decree dated 13.12.2023 and the final decree dated 03.04.2024 remain undisturbed and binding upon the parties, no case survives for interference with the impugned order dated 29.04.2026, which merely gives effect to the final decree by directing that possession of the property be taken for the purpose of auction.

25. This Court is, accordingly, of the considered opinion that the present appeal is devoid of merit and is being pursued only with a view to further delay the execution of a decree that has attained



2026:DHC:5506-DB



finality years ago. No ground for interference with the impugned order dated 29.04.2026 passed in EX.P. 58/2025 is made out.

26. Even if the conduct of the appellants, as noticed above, is kept aside from consideration, the impugned order dated 29.04.2026 does not suffer from any infirmity on merits. The final decree dated 03.04.2024 has itself recorded a finding that the suit property is incapable of being physically partitioned by metes and bounds in terms of the applicable municipal bye-laws and the parties could not arrive at any consensus for mutual division of property. Once such a finding attains finality, it is open to, and indeed incumbent upon, the Court executing the decree to direct that the property be sold and the sale proceeds distributed amongst the parties in proportion to their respective shares, in place of a physical division of the property because the parties could not go in for private sale or builder proposal. The impugned order, in directing that possession be taken from the appellants for the property to be put to auction, does nothing more than to give effect to this very mode of partition contemplated by the final decree itself, and does not, therefore, call for any interference by this Court.

27. Resultantly, EFA(OS) 5/2026 is dismissed. The impugned order dated 29.04.2026 passed by the learned Single Judge stands affirmed. Pending applications, if any, also stand disposed of.

VIVEK CHAUDHARY, J

RENU BHATNAGAR, J

JULY 07, 2026*/neha/MM/nc*

Signature Not Verified

Signed
By: PRIYADARSHANI JAIN
Signing Date: 09.07.2026
18:28:20

EFA(OS) 5/2026

Page 11 of 11