$~20

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

\+ EFA(OS) 16/2016, CM Nos. 24866-24868/2016

RAJINDER KUMAR GUPTA ..... Appellant

Through: Ms. Anusuya Salwan, Advocate alongwith Mr. Kunal Kohli and Mr. Abhishek Pundir, Advocate.

versus

ARUN KUMAR GUPTA & ANR ..... Respondents

Through: Mr. Ashim Vachher, Advocate alongwith Mr. Vaibhav Dabas, Advocate.

**CORAM:**
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**
**HON'BLE MS. JUSTICE DEEPA SHARMA**

**<u>O R D E R</u>**

% **15.07.2016**

Issue notice. Mr. Ashim Vachher, Advocate accepts notice on behalf of the respondents.

This is an execution appeal directed against an order of the learned Single Judge dated 02.06.2016 rejecting the chamber appeal (OA No. 119/2016). For the purposes of this appeal, it is necessary to record that the suit property-premises No. D-5, CC Colony opposite R.P. Bagh, Delhi- 110007, was the subject matter of partition suit. The shares of the parties were determined at 25% each to the appellant and the respondent no.2 and 50% to the first respondent. Apparently, the previous orders of the executing court indicate that attempts to sell the property by public auction were unsuccessful. The last offer was on 23.04.2016 when the suit property was put to auction with the reserve price fixed at Rs. 8.5 crores; however, there was no bidder and the auction failed. As per the evaluation report put forward by the decree holder, value of the property was Rs. 6.19crores; the appellant/judgment debtor on the other hand contended that the value of the property was Rs. 10.48 crores. In these circumstances, given the past unsuccessful attempts to sell the property, the Joint Registrar who is monitoring the bidding exercise fixed the reserve price at Rs. 7.5 crores by the order of 18.05.2016. The appellant felt aggrieved and approached the Single Judge in OA No. 119/2016 which was virtually rejected summarily.

During the course of hearing, the appellant submitted that the first respondent had offered to purchase the 25% of share of the second respondent on the basis of the value of property fixed at Rs. 8.5 crores. It was submitted that the application with EA (OS) No. 184/2016 was allowed and the said offer was accepted by an order dated 03.05.2016. It was stated that in the circumstances, the value at Rs. 7.5 crores would work out unfairly to the appellant. Learned counsel for the first respondent pointed out that in a fast changing property market, the value of the suit property has declined. He, however, did not dispute that the 25% share agreed to be acquired from the second respondent was on the basis of the entire value being Rs. 8.5 crores. In the circumstances, the court felt that denying/withholding a similar offer to the appellant would be illogical and unfair to him. Resultantly, counsel for the first respondent, on instructions, stated that he would be now willing to offer to purchase the appellant's 25% share at the value of Rs. 8.5 crores (i.e. Rs. 2,12,50,000).

It is submitted that the terms of the offer would be identical with the offer made to and accepted by the second respondent-duly recorded in order of 03.05.2016 on the application in EA No. 184/2016.

It is stated that in view of this development, the matter is remitted to the Joint Registrar to work out the terms of convening 25% share of the appellant in the suit property to the first respondent.

The statement of the parties i.e. the appellant and the first respondent (who are present in court) is part of the record.

The appeal is allowed in the above terms.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**JULY 15, 2016**
*sapna*