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

+ CM(M) 739/2016

V K SURI & ORS ..... Petitioners

Through Mr.Rahul Dev Sharma and  
Mr.Ghanshyam Thakur, Advocates.

versus

RAJEEV GUPTA & ORS ..... Respondents

Through None.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

% **03.08.2016**

**CM No. 27758-59/2016 (exemption)**

Exemption is allowed subject to all just exceptions.

**CM(M) 739/2016**

By the present petition, the petitioners seek to impugn the order dated 10.06.2016. It is the case of the petitioners that they have filed a suit for recovery of Rs. 24,50,000/- based on a cheque received on assignment. It is further stated that the property of the defendant/respondent No.1 for which the petitioners moved an application under Order 38 Rule 5 CPC seeking attachment is likely to be sold by Oriental Bank of Commerce, Respondent No.3 under the SARFAESI Act. It is submitted that in case such a sale is affected, the

petitioners would not have any remedy available in law to recover their original dues.

Along with the petition, even the copies of the supporting documents have not been placed on record. It is obvious that respondent No.3 is carrying on auction of the property in question as the property has been subject of charge/mortgage with the said Bank. They would have a prior right to take steps to recover their dues. At best, the petitioner can claim any residue amount that is left from the auction proceedings after satisfying the dues of respondent No.3 or any other secured creditors.

Granting the leave and liberty to the petitioners to approach the trial court for the relief/claim as stated above, the petition is disposed of.

Copy of the order be given dasti under the signatures of the Court Master.

**JAYANT NATH, J**

**AUGUST 03, 2016**  
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