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

+ **FAO(OS) 264/2015 and CM No. 9066/2015**

IIARIA KAPUR

..... Appellant

Through: Ms Mala Goel

versus

RAKESH KAPUR & ORS

..... Respondents

Through: Respondent No. 1 in person
Mr Ambar Qamaruddin for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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08.01.2016

We have heard the learned counsel for the parties. The learned counsel for the respondents has handed over the original valuation report in respect of various properties including Flat No. B-103, Som Vihar, Sector-10, R.K. Puram, New Delhi and Birch Court bearing No. 38, Block-L, Nirvana Country, South City-II, Phase-II, Gurgaon. The valuation has been done by Paramjeet Associates. The original reports as well as the copy of the empanelment by the High Court of the valuer shall be filed by the learned counsel for the respondent within a week. On going through the same, it appears that the value of the Som Vihar property is approximately Rs 3.78 crores and that of the Gurgaon Flat as mentioned above is approximately Rs 2.54 crores. It is also pointed out that the market value of all the properties which are allegedly owned by the defendant No. 3 comes to approximately Rs 14.52 crores. Some properties have been sold and the value of the sold properties is Rs 1.53 crores. Therefore, the total value of the sold and unsold properties would be approximately Rs 16.05 crores. The alleged 1/9th share of the

appellant would be approximately Rs 1.78 crores out of Rs 16.05 crores. The market value as assessed by the valuer of the Som Vihar property is Rs 3.78 crores which is in excess of the value of the alleged 1/9th share of the appellant. In these circumstances, the order passed by the learned Single Judge which is impugned before us, in which there is a stay only with regard to the Som Vihar property, ought not to be interfered with. The interim order passed by us stands vacated.

The learned counsel appearing on behalf of the respondents and, in particular, respondent No. 3 / defendant No. 3 undertakes before this court that in the event the appellant / plaintiff succeeds in the suit, the said respondent No. 3 / defendant No. 3, even if it be held that the properties personally belonging to her cannot be partitioned by metes and bounds, would not object to the share of the appellant / plaintiff being paid / released from the said Som Vihar property and if need be, would vacate and deliver possession of the Som Vihar property for realisation of the share of the plaintiff / appellant, in case the respondents are unable to compensate the appellant in monetary terms. This undertaking has been given only for the purposes of the present appeal and the suit.

The appeal stands disposed of.

BADAR DURREZ AHMED, J

JANUARY 08, 2016
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V. KAMESWAR RAO, J