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

+ CM(M) 1062/2016

NARESH KUMAR Petitioner
Through Mr.Rajiv Bajaj, Advocate.

versus

ASHOK ARORA Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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24.10.2016

CM No. 39148-39149/2016 (exemption)

Exemption is allowed subject to just exceptions.

CM(M) 1062/2016 and CM No. 39147/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 08.09.2016 by which an application filed under Order 21 Rule 72 CPC was allowed and the respondent/decreed holder was permitted to participate in the auction bid.
2. The genesis of the dispute appears to be a consent decree passed on 30.04.2007 for a sum of Rs.5,00,000/- and in case the petitioner failed to pay the said amount, the petitioner was to pay Rs.7,50,000/- plus interest.
3. It appears from the record that the Court Auctioneer has been appointed to auction the property being 231/1, First Floor, Pocket D-12, Sector 7, Rohini, Delhi. Direction for auction was given to 20.05.2016. On 29.07.2016 by the consent of parties, the minimum bid price was fixed at

Rs.20 lacs. By the impugned order, the respondent/decreed holder was allowed to participate in the bid.

4. Learned counsel appearing for the petitioner submits that the background of the dispute was that the petitioner had engaged the respondent in the matter and had given a cheque of Rs.5 lacs as fees which was returned unpaid. Hence, the petitioner entered into a compromise. He further submits that the sale is of only a part of the property and this would attract no public bidders and the respondent in view of the permission granted by the trial court would have his bid accepted and create difficulties for the petitioner. He further vehemently argued that no notice was served on the petitioner on the application of the respondent and the application has been allowed.

5. He further submits that the property is the only source of livelihood of the petitioner. He submits that the petitioner would be willing to comply with the decree, if some time is given to him.

6. Keeping into account the objections of the petitioner, the petitioner should have been given a hearing before the application under Order 21 Rule 72 CPC was disposed of. Accordingly, the petitioner is permitted to file an application for review of the said order dated 08.09.2016 passed in the application under Order 21 Rule 72 CPC filed by the respondent. In case such an application is filed within 10 days from today, the trial court shall dispose of the same in accordance with law. It is clarified that the application for review shall only be heard if the petitioner deposits a sum of Rs. 5 lacs before the executing court in part satisfaction of the decree within 10 days from today. In case of deposit of the sum of Rs.5 lacs within 10 days from today and moving the said application for review, till the

pendency of the review application, the auction shall not be carried out. The petitioner shall be at liberty to plead before the trial court for appropriate time to comply with the full decree.

7. The petition stands disposed of.

8. Copy of the order be given Dasti under signatures of the Court Master.

JAYANT NATH, J

OCTOBER 24, 2016

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