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

+ **RFA 775/2017 and C.M. Appl. Nos. 32929-30/2017**

SATYENDER KUMAR Appellant

Through: Mr. Sunil Dalal, Advocate.

versus

DAVINDER SINGH Respondent

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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11.09.2017

C.M. Appl. Nos. 32931-32/2017 (for exemptions)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

RFA 775/2017

1. After arguments, this appeal is disposed of by observing that the appellant who is 50% owner of the suit property will have the benefit of provision of Section 6 of the Partition Act, 1893, and more particularly its Sub-Section (2). This is so observed by the Court because the appellant is interested in purchasing the other half portion of the suit property on payment of 50% of the net sale consideration to the respondent/defendant.

2. Learned counsel for the appellant expresses an apprehension that there is a possibility of the respondent having mortgaged his

share to a bank, and in this regard since the court below has not observed anything on merits, I need not do so, however, I clarify that the necessary provisions of Order 21 CPC, including of drawing up of a proper proclamation of sale under Order 21 Rule 66 CPC, will be complied with by the trial court for the process of sale of the suit property. It is also further clarified that a minimum bidding price will be fixed according to the facts and circumstances of the present case with respect to the suit property after taking all the factors affecting the suit property being taken into consideration.

3. The trial court will now proceed ahead with final decree proceedings in accordance with law and the observations made in the present order.

VALMIKI J. MEHTA, J

SEPTEMBER 11, 2017

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