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

+ CM(M) 252/2015 and CM APPL.5311/2015, 20690/2016 (stay)

SHASHI DHAUL Petitioner
Through: Mr. S.K. Mishra, Adv. with
Mr. Sunil Kumar Roy, Adv.
versus

MERCHAND CHIT PVT LTD Respondent
Through: Mr. Parminder in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **11.05.2018**

Costs imposed on the last date are waived.

The executing proceedings (Ex. No.99/2006) in which the impugned orders dated 27.09.2014, 23.02.2015 and 16.03.2015 were passed had been filed to execute the decree which was obtained by the respondent for recovery of money against Rakesh Kumar Dhaul, late husband of the petitioner. It appears, at the instance of the respondent/decreed-holder, the executing court had proceeded to attach house No.123, Chitra Vihar, Delhi-110 092, the decree-holder having informed the executing court on 27.09.2014 that it stood in the name of the judgment-debtor. The executing court proceeded further to put the said property to auction.

The petitioner filed objection taking the position that the judgment-debtor had nothing to do with the said property as it belongs to her. By order dated 16.03.2015, the objector was directed by the executing court to deposit half of the decretal-amount.

This condition and directions is apparently unfair and unjust. The executing court is bound to inquire into the objections filed and return a clear finding as to whether the property sought to be put to sale belongs to the judgment-debtor or stands in the name of the objector.

Thus, the impugned order directing the sale of the above mentioned property and directing the petitioner to deposit half of the decretal-amount are set aside. The executing court is directed to hold a proper inquiry in light of observations recorded above.

The petition and the applications filed therewith stand disposed of with these observations.

R.K.GAUBA, J.

MAY 11, 2018

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CM(M) 252/2015

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