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

+ W.P.(C) 11166/2017

M/S. ESTERA REAL ESTATE PRIVATE LIMITED..... Petitioner

Through Mr. Vineet Malhotra, Mr. Prashant
Kumar and Mr. Shubhendu Kaushik,
Advocates.

versus

MRS. GEETA DATT AND ANR. Respondents

Through Mr. H.L. Tiku, Senior Advocate along
with Mr. S.K. Nanda, Advocate for
respondent No. 1.
Mr. Amit Sethi and Mr. Ishan
Khanna, Advocates for respondent
No. 2.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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14.03.2018

The present petition assails an order dated 22nd November, 2017, rendered by the learned Debts Recovery Appellate Tribunal, Delhi (DRAT) in Appeal No. 474/2016 titled as "*Geeta Dutt vs. Canara Bank & Anr.*" (hereinafter referred to as the 'subject appeal') whereby in terms of a *prima facie* view arrived at by the Tribunal, the auction purchaser who is the petitioner herein, was directed to deposit with the Registrar the unearned increase amount of Rs.12.65 crores, with a further direction that in case the deposit was not made within a week, the auction purchaser would become liable to surrender the property in his occupation.

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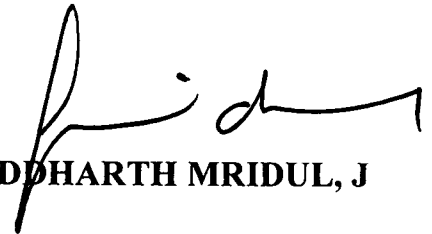
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The petitioner is aggrieved not only by the said direction but also by the *prima facie* view taken by the DRAT to the effect that the sale was conducted by illegal and arbitrary exercise of the power by the Recovery Officer in collusion with the auction purchaser.

Having heard learned counsel for the parties, we are of the view that the direction to deposit the unearned increase amount at the preliminary stage of the hearing of the appeal cannot be sustained. The direction to so deposit the unearned increase is, therefore, set aside at this stage.

Insofar as, the *prima facie* view arrived at by the Tribunal is concerned, needless to state that the same is only a *prima facie* view and that the Tribunal would hear the petitioner in this behalf on the merits of the subject appeal before finally adjudicating upon it.

With the above direction, the writ petition is disposed of.



SIDDHARTH MRIDUL, J



DEEPA SHARMA, J

MARCH 14, 2018

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