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

+ W.P.(C) 4768/2019

M/S ODEON BUILDERS PVT. LTD. AND ORS.

..... Petitioner

Through: Mr. Ravi Gupta, Sr. Adv.with Mr.
Karunesh Tandon, Mr. Sachin Jain,
Ms. Diya Kapoor, Advs.

versus

M/S ICICI BANK LIMITED

..... Respondent

Through: Mr. Punit K. Bhalla, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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15.05.2019

C.M. No. 21213/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 4768/2019 & C.M. No. 21212/2019

Issue notice. Mr. Bhalla accepts notice on behalf of the respondent bank.

We have heard substantial arguments of learned senior counsel for the petitioner as well as learned counsel for the respondent.

The grievance of the petitioner is that the DRAT, while passing the impugned order dated 25.03.2019 has permitted the respondent bank to

undertake the sale of the entire property as one unit, which is constructed on plot Nos. D112 and D113, Preet Vihar, New Delhi.

The submission of the petitioner is that even if the constructed building - as existing on one of the two plots is sold, the sale would suffice to meet the outstanding dues of the respondent bank and, therefore, the sale of the entire constructed property on both the plots aforesaid – as one unit, is not necessary to be undertaken.

Learned counsel for the respondent submits that the outstanding dues as on date are to the tune of Rs.29 crores. The petitioner denies that the liabilities are to the tune of Rs. 29 crores as claimed by the respondent.

There is no dispute that the property as constructed on the aforesaid two plots is a single unit, having only one staircase leading to the upper floors. We have also been shown the photographs of the property and it is pointed out by learned counsel for the respondent that there is a single entry to the entire property.

Mr. Gupta submits that another entry and staircase could be created in the portion in which the same does not exist, in the eventuality of the property being sold plot-wise, after constructing a partition wall vertically between the two plots.

In the aforesaid circumstances, we permit the respondents to proceed with the auction sale of the entire property in the following manner:

- i) The respondent would be entitled to invite bids for the entire property as it exists on plot Nos. D-112 and D-113, Preet Vihar, New Delhi as a single unit.
- ii) The auction notice should also invite bids for the existing construction- as it exists, separately on D-112 and D-113, Preet

Vihar, New Delhi and the auction notice should clearly declare that in case the two properties, or one of them, is sold independently, a vertical partition wall would be created on the boundary separating D-112 and D-113 from ground floor till the top floor.

- iii) The plan of the existing constructed property, as it presently exists with the proposed boundary wall between plot Nos. D-112 and D-113 shown in red colour, should also form part of the auction notice.
- iv) Depending upon the outstanding liability and the bids received, the respondents shall decide which of the bids should be accepted, so that firstly its dues are satisfied and, thereafter, the concerns of the petitioner for saving one of the aforesaid plots from sale are addressed, if possible.

The petition stands disposed of in the aforesaid terms.
DASTI.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 15, 2019
N.Khanna