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

\+ **CM (M) 233/2020**

M/S ICICI BANK LTD ..... Petitioner

Through: Mr. Punit K. Bhalla and Mr. Chetra Bhalla, Advocates. (M: 9810080772)

versus

GARIMA JAIN ..... Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

<u>O R D E R</u>

% **24.02.2020**

<u>CM APPL. 7327/2020 (exemption)</u>

1. Allowed, subject to all just exceptions. Application is disposed of.

<u>CM (M) 233/2020</u>

2. The present petition has been filed by the Petitioner/Plaintiff – M/s ICICI Bank Ltd. *(hereinafter, "ICICI Bank")* challenging the impugned order dated 9th August, 2019 by which the Executing Court has adjourned the execution proceedings *sine die* on account of the Respondent's/Defendant's/Judgment Debtor's *(hereinafter, "Defendant")* address being untraceable, with permission to revive the proceedings once the Defendant's address is traced.

3. ICICI Bank is aggrieved by the fact that though the suit for recovery of Rs.3,96,498/- has already been decreed by the Trial Court on 3rd November, 2015, ICICI Bank's application in the execution proceedings for permission to sell the vehicle by way of public auction continues to remain pending. Even in the impugned order, the application has not been considered and the matter has been adjourned *sine-die*.

4. Mr. Punit K. Bhalla, ld. counsel, submits that the suit is for recovery of

a vehicle loan wherein a decree has already been passed and the vehicle has been put in the possession of ICICI Bank by orders of the Court. Ld. counsel submits that permission for sale of the vehicle ought to be granted by the Executing Court inasmuch as the vehicle is losing its value and is currently not being put to use in any manner. According to ld. counsel, the impugned order does not deal with ICICI Bank's application, which is still pending.

5. Considering the fact that the suit already stands decreed and the receiver had taken possession of the vehicle way back in 2014, no useful purpose is served by keeping ICICI Bank's prayer for sale of the vehicle pending. In similar cases, this Court has already passed an order directing that in cases of these nature, the order of public auction ought to be passed in a deft manner so as to ensure that the value of the vehicle is not eroded during the time when the proceedings remain pending in Court.

6. Accordingly, it is directed that ICICI Bank be permitted to sell the vehicle through public auction. The Defendant is permitted to participate in the auction, as detailed in paragraph 14 of this Court's judgment in ***M/s. ICICI Bank Ltd. v. Kamal Kumar Garewal, [FAO 49/2015, decided on 29th May, 2015].*** Notice would be served on the Defendant by way of speed post at the known address of the Defendant, as also at the address from which possession of the vehicle was taken. Once the auction has taken place strictly in terms of the said judgment, a report shall be placed before the Executing Court on 17th April, 2020.

7. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 24, 2020/*dj*

(Corrected and released on 13th March, 2020)