



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM :

THE HON'BLE MR.JUSTICE M.DURAIWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

O.S.A.NO.335 OF 2021
AND
C.M.P.NO.20910 OF 2021

1.M/s.Arithma Technologies India Pvt. Ltd.,
rep by its Directors
K.S.Jafarullah Khan, Sajida Parween
having registered officer at
No.145, Anna Salai, Little Mount,
Saidapet, Chennai - 600 015.

2.K.S.Jafarullah Khan

3.Sajitha Parween ...Appellants / Respondents

Vs.

S.K.Shamsudeen
rep by Power Agent
M.Mujeebur Rahman

...Respondent / Applicant

Appeal filed under Order XXXVI Rule 1 of the Original Side Rules against the order dated 02.11.2021 passed in A.S.No.882 of 2021 in C.S.No.61 of 2014.

For Appellants : Mr.K.Ilango
For Respondent : Mr.Abdul Mubeen
for Mr.A.Raja Mohamed

J U D G M E N T
(JUDGMENT WAS MADE BY M.DURAIWAMY, J.)

Challenging the order passed in the application in A.No.882 of 2021 in C.S.No.61 of 2014 reducing the upset price from Rs.3.5 crores to Rs.2.5 crores, the judgment debtors have filed the above appeal.

2.Heard Mr.K.Ilango, learned counsel appearing for the appellants and Mr.Abdul Mubeen, learned counsel appearing for the respondent.



3.The learned counsel appearing for the appellants submitted that the learned Single Judge, by order dated 27.09.2021, fixed the upset price at Rs.3.5 crores and within a span of less than 40 days, reduced the upset price to Rs.2.5 crores. While fixing the upset price at Rs.3.5 crores, the learned Single Judge took into consideration the valuation report submitted by the Advocate Commissioner, wherein it has been stated that the market value of the property would be Rs.3,11,67,000/-. However, within a span of 40 days, the learned Single Judge, reduced the upset price to Rs.2.5 crores, observing that he has taken into consideration the calculus of market fluctuation in the value of real value of the property. Apart from stating that there is market fluctuation, the learned Single Judge has not taken into consideration any documentary evidence to establish that the market value had declined to Rs.2.5 crores.

4.When the Advocate Commissioner has suggested that the market value of the property would be Rs.3,11,67,000/-, we are of the considered view that the upset price can be fixed at Rs.3.25 crores instead of Rs.2.5 crores.

5.For the reasons stated above, the upset price is fixed at Rs.3.25 crores, at the cost of the judgment debtors, instead of Rs.2.5 crores as fixed by the learned Single Judge. The order dated 02.11.2021 passed in the application in A.No.882 of 2021 is modified to the effect as stated above. The appeal is partly allowed. In other aspects, the order passed by the learned Single Judge shall remain unaltered. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

va

To

The Sub Assistant Registrar,
High Court, Madras.

+2ccs to M/s.A.Raja Mohamed, Advocate Sr.No.13621

O.S.A.No.335 of 2021
and C.M.P.No.20910 of 2021

NRL (CO)
RVM(02/03/2022)