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

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Decided on: 22.09.2022

+ **EFA(OS) 6/2022, CM APPL. 18630/2022 & CM APPL. 18631/2022**

RAMESH KOHLI

..... Appellant

Through: Mr. M.S. Khan, Mr. Varun Kumar,
Ms. Pallavi Chopra and Ms. Neha
Khan, Advocates.

versus

RAVI SAWHNEY AND ORS

..... Respondents

Through: Mr. A.S. Chandhiok, Sr. Advocate
with Mr. Imran Moulaey, Ms. Simran
Kohli and Ms. Vidhushi Keshan,
Advocates for R-1 to R-5 along with
R-2 in person.

Mr. Vineet Jhanji, Advocate for R-6
to R-8.

Mr. Gaurav Duggal, Advocate for
R-9. (Mob. No. 9811297368)

Mr. Vidur Bhatia and Mr. Daniyal
Khan, Advocates for R-10 to R-12.

Mr. Abhimanyu Mahajan, Ms.
Anubha Goel, Mr. Mayank Joshi and
Ms. Shambhavi K., Advocates for
R-13.

Mr. Akshay Makhija, Sr. Advocate
with Ms. Roshni Namboodriy,
Advocate for R-14.



Mr. Divye Puri, Advocate for R-16 &
R-17.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI
HON'BLE MR. JUSTICE VIKAS MAHAJAN

NAJMI WAZIRI, J (ORAL)

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. This appeal impugns the order dated 11.03.2022 directing the sale of two properties i.e. Property bearing No. 31, Golf Links, New Delhi and Property No. 7-7A, Cross Road, Dehradun, Uttarakhand, failing which, through public auction, all along ensuring that the said properties fetch the optimal values through sale or other form of disposal of the properties. This order is in execution of award passed on 31.07.2014. Surely, the appellant cannot take more than what he is entitled to. His entitlement is spelt out in the award. He claimed some more shares as having accrued to him through relinquishment deeds from three of his sisters which, in effect, would take his share to about 50% of the two inherited properties.
2. The respondents have, for the moment, humored the said claim and reserve their rights to contest the same at appropriate stage. Nevertheless, to accommodate the appellant's claim to hold on to the Delhi property, which has admittedly been valued at a private bid in the range of Rs. 130 crores, of which the appellant is in joint



possession with his two brothers, to the exclusion of the other five siblings.

3. On the previous date i.e. on 16.09.2022, this court had passed the following order:

“ 1. An affidavit has been filed by the appellant claiming that he has 50% share on the basis of Relinquishment Deeds executed in his favour by his three sisters. The same is disputed by the learned counsel for the respondents.

2. Be that as it may, the private bid for the Delhi property is said to be in the range of Rs.130 crores whereas for the Dehradun property is said to be Rs.32 crores. Thus, the total value of the properties is Rs.162 crores. Of the 8 siblings only 2 siblings are occupying the Delhi property while the Dehradun property is in exclusive possession of the appellant.

3. The appellant's case, at best, is that he has 50% share of the same. Since the appellant is in possession of the said properties to the exclusion of all other siblings, it would be logical and prudent that to safeguard the shares of the respondents, he deposit atleast 50% of the private bid amount otherwise, the said properties be put to sale, either through auction or on private sale, whichever fetches the highest value for the properties. In the circumstances, it will be open to the appellant to deposit 50% of the aforesaid value, i.e., Rs.81 crores.

4. The learned Senior Advocate for the respondent no.14 submits that the said deposit would be without prejudice to rights and contentions of the parties.

5. The learned counsel for the appellant seeks time to consider the position.

6. Re-notify on 22.09.2022.



7. It will be open to the respondents to file their objections and response apropos the document filed by the appellant.”

4. Today, the learned counsel for the appellant says that he is not in a position to pay the said monies. In this regard, the impugned order records as under:

“1. By this petition, the decree holders seek execution of the Award dated 31st July, 2014 read with Interim Award dated 18th October, 2012. As per the Award, shares in the properties at Golf Links and Dehradun were apportioned in favour of all the children of late B.C. Kohli. Parties have already exercised their option of inter se bidding which has not been successful, thus the only course open, to realise the share of each of the parties, is by selling the two properties.”

5. The shares of the eight siblings were determined by the interim award of 18.10.2012 and the latter order of 31.07.2014 records that the properties cannot be partitioned. Therefore, the realization of the respective shares would only be by way of disposal of the properties. The respondents went into execution of the said order which has resulted in the impugned order. In any case, the award is not challenged under the Arbitration and Conciliation Act, 1996. The appellant says that his share should personally and exclusively be determined first. It is noted that all the shares have been determined and nothing more can be done except as already directed as that is the most logical and prudent determination in terms of the above.



6. The appeal is without merit and it, along with the pending applications, is accordingly dismissed.

NAJMI WAZIRI, J

VIKAS MAHAJAN, J

SEPTEMBER 22, 2022

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