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

*Date of decision: 23.11.2023*

+ **CM(M) 1822/2023, CM APPL. 57680/2023**

**M.K. MAKKAR**

..... Petitioner

Through: Ms. Meena Jindal, Adv.

versus

**GHANSHYAM DASS SHARMA**

..... Respondent

Through: None.

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**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**J U D G M E N T**

**MANMEET PRITAM SINGH ARORA, J (ORAL):**

1. This Petition filed under Article 227 of the Constitution of India impugns the order dated 26.08.2023 passed by ADJ District Central, Tis Hazari Court Delhi ('Executing Court') in Execution No. 30/2017, titled as **M.K. Makkar v. Ghanshyam Dass Sharma**, dismissing an application filed under Section 151 of the Code of Civil Procedure, 1908 ('CPC') by the Petitioner herein i.e., decree holder praying for issuance of fresh sale proclamation of the immovable property owned by the judgment debtor through E-Auction.

1.1. The Petitioner herein is the decree holder and the Respondent No.1 is the judgment debtor before the Executing Court.

1.2. The Executing Court vide the impugned order dismissed the said



application, observing that since there are no Rules prescribed for E-Auction and no specific agency has been entrusted with the responsibility of conducting such E-Auction, therefore, the application is not maintainable and consequently declined to pass an order for E-Auction.

2. The learned Counsel for the Petitioner states that E-Auction of immovable properties are being conducted by financial institutions and banks under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002. He states that the said E-Auction has been upheld by the Courts.

2.1 He states that in the fact of this case, since several attempts have been made to sell the immovable property through conventional method of physical public auction, however, the same has not yielded results due to the impediments created by the judgment debtor.

2.2 He, therefore, prays that a direction be issued granting permission for conducting an E-Auction of the judgment debtor's immovable property, which will enable a wider participation. He relies upon the circular issued by the Government of NCT of Delhi on 30.11.2009 with respect to permitting E-Auction through its website.

3. This Court has considered the submission of the Counsel for the Petitioner and perused the record.

4. This Court's attention has been drawn to the order passed by a Co-ordinate bench in CO.PET. 510/2014, wherein this Court permitted the Official Liquidator to conduct an e-auction of the immovable properties owned by the company in liquidation through M/s RailTel Corporation Limited.



5. Similarly, the Supreme Court in *Vikrant Kapila & Anr. v. Pankaja Panda & Ors.*, 2003 SCC OnLine 1298, in a suit for partition wherein parties agreed to sale of the suit property, with a view to expedite the process permitted the parties therein to consider e-auction of the immovable property through e-platforms.

5.1. This Court, therefore, finds no impediment in allowing the prayer sought by the Petitioner in the application filed under Section 151 CPC for E-Auction of the subject property.

Learned counsel for the Petitioner states that he has no objection if the E-Auction is held through the platform of M/s RailTel Corporation Limited.

6. Accordingly, learned Executing Court is directed to permit an E-Auction of the immovable property through the auctioning agency namely M/s RailTel Corporation Limited, a Mini Ratna Sector, PSU under Ministry of Railways, Government of India. The rules of valuation for the purpose of fixing the reserve price, publishing the sale notice and all other rules, as applicable to a physical public auction shall apply mutatis mutandis.

7. The Petitioner is directed to place the copy of this order before the Executing Court along with an appropriate application within two (2) weeks.

8. With the aforesaid directions, the present Petition is allowed and the impugned order is set aside. Pending applications, if any, stand disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**NOVEMBER 23, 2023**

Aks/sk

*Click here to check corrigendum, if any*