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

% ***Date of Decision: 22nd May, 2025***

+ **CM(M) 964/2025 & CM APPL. 31766-31767/2025**

MAHENDER

.....Petitioner

Through: **Ms. Vishakha Sharma, Advocate**

versus

PUSHPENDER SHARMA & ORS.

.....Respondent

Through: **None**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner is aggrieved by order dated 21.03.2025.
2. Petitioner, who is JD No. 1 before the learned Executing Court, made offer to purchase the share of the Decree-Holder, as per the valuation given by SDM. Fact, however, remains that counsel for Decree-Holder declined the aforesaid offer and submitted that they, rather, want to proceed with the auction. Resultantly, learned Executing Court has directed for auction.
3. It has drawn schedule for the purposes of auction of the property, primarily, considering the specific directions given by the Hon'ble Supreme Court in *Periyammal v. V. Rajamani*, 2025 SCC OnLine SC 507 which mandates disposal of *Execution Petition* within six months.
4. Such order is under challenge.
5. Initially, the decree was passed on the basis of Order XII Rule 6 CPC and, thereafter, final decree has been passed on 08.11.2023.



6. At the stage of final decree, it was agreed by all the parties that the partition could be effected by way of *metes and bounds* and, therefore, it was unanimously agreed by the parties that the property be sold. Moreover, as per the aforesaid order, parties have also been permitted to participate in such auction, either individually or jointly.

7. In view thereof, judgment-debtor cannot insist that the other party should be asked to accede to his request, whereby he intends to buy their shares. Moreover, Decree-Holder is not willing to sell his share to JD No. 1 and, therefore, in terms of final decree, the only other alternate is to put the property to auction.

8. Finding no illegality or perversity in the impugned order, the present petition is accordingly dismissed.

9. All the pending applications are also disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 22, 2025/dr/shs