

09.01.2026

Present: Sh. Sudhir Kumar and Sh. Arvind Kumar, Ld. Counsel for
DH.

Sh. Kishan Jaiswal, Ld. Counsel for JD.

Valuation report has been filed of both the properties. Copy
supplied.

It is informed that this valuation report was filed in Tis
Hazari Courts as well.

No valuation has been filed by the JD.

The nuances of public sale by auction of property in
execution of a decree for partition have been noticed by the Hon'ble
High Court of Delhi in case titled as *Vivan Somdutt & Anr Vs. Arjun
Somdutt & Ors*, Ex.P. 17/2016. In an order passed in an appeal EFA (OS)
1/2019, arising out of the said case, the aspect of payment of stamp duty
on the decree has been dealt with and is quoted for ease of reference:

4. Though I had in order dated 17th April, 2018 referred to judgments holding that the court fees/stamp duty is not payable on a decree for partition by sale but since then, the Full Bench of this Court in Indu Singh Vs. Prem Chaudhary 2018 SCC OnLine 8951 has held that court fees/stamp duty is payable on such a decree also. No court fee has beenpaid.

5. Though technically speaking there is no executable decree till the said court fees is paid but the counsels for all the parties state that they are not in a position to pay the court fee/stamp duty and all are agreeable that the court fees/stamp duty be made first charge on the sale proceeds.

Therefore, Nazir to file report whether the court fees/stamp duty has been paid on the decree.

The order dated 14.08.2023, passed in the said Ex. P. 17/2016, by the Hon'ble High Court laid down broad terms and conditions for auctioning the property, which can be incorporated even in the present case. Vide said order the Hon'ble Single Judge of the High Court of Delhi directed the payment of expenses of the auction proceedings to be paid, as also, appointed a Court Commissioner for carrying out the process of auction of the suit property.

Following terms and conditions were proposed by the court:

“1. The Court Commissioner shall take all necessary and appropriate steps for auctioning the aforesaid suit property by way of a public auction.

2. The party(ies) in possession of the original documents of title of the suit property shall hand over the same to the Court Commissioner within two weeks from today.

3. All the outgoings relating to, concerning with and/or connected to the aforementioned suit property, whether on account of electricity, water, maintenance or property tax etc. upto the date of the sale, shall be borne by the parties to the suit in proportion of their respective shares therein and for the period/s thereafter, it shall be the responsibility and liability of the successful bidder/ purchaser to bear the same.

4. The draft sale proclamation shall be settled by the Court Commissioner in consultation with the parties and shall be finally approved by the learned Joint Registrar concerned.

5. The Court Commissioner shall issue final proclamation of sale in the local newspapers having wide circulations, at least one in Hindi language and one in English language.

6. The final proclamation of sale shall be prominently displayed on the notice boards of the High Court of Delhi, all the District Courts in Delhi as also in the offices of concerned Sub-Registrar

within whose jurisdiction the suit property is situated and Sub-Divisional Magistrate of the concerned district. Besides, the final proclamation of sale shall also be affixed at the conspicuous place of the property in suit.

7. The Court Commissioner shall consider publication of final proclamation of sale in atleast one of the websites; such as <https://education.gov.in>, <https://www.bankeauction.com> and <https://www.ucobank.auctiontiger.net>.

*8. The reserve price of the suit property in auction shall be fixed at **Rs. 73,39,254/-**.*

9. The parties to the suit shall be entitled to participate in the public auction.

10. The bids may be submitted by a participating bidder even jointly with another person including a lender/ financial supporter to the said participating bidder. If a bid is submitted jointly, the obligation of the successful joint bidder/ auction purchaser to pay the final bid price shall be joint and several.

11. Each bidder/ participant in the open auction will be required to deposit with the Court Commissioner before the commencement of the auction, a bank draft/banker's cheque of 10% of the said value in favour of the "Registrar General, Delhi High Court".

12. The names of the highest bidder and second higher bidder for the suit property shall be declared by the Court Commissioner after conclusion of the public auction for the said property. The deposits made by other participant bidders shall be returned.

13. Upon the finalisation of the highest bid in the public auction, the highest successful bidder shall deposit with the Registrar General, Delhi High Court, 15% of the total final bid amount, after adjusting already deposited amount as aforementioned, by way of bank draft/ banker's cheque/RTGS/NEFT, within seven working days from the date of the said auction.

14. The sale in favour of the highest bidder shall become final only after the approval of the bid by this Court.

15. After the approval of the bid by this Court, the successful bidder/ purchaser shall deposit the

balance bid amount (after deducting TDS and depositing the same with the income-tax department in the names of the parties to this petition in proportionate to their respective shares in the suit property) with the Registrar General, Delhi High Court within 60 days of the approval of the highest bid by this Court.

16. In the event of failure of the highest bidder/purchaser not depositing the entire amounts as noted above within the time so prescribed, the amounts deposited till that date, whether original amount of 10% of the said value and/or any other shall stand forfeited, and the suit property shall be then offered to the second highest bidder at the bid price quoted by the said second highest bidder, the other terms of the deposits and time therefor etc. remaining the same as noted above.

17. On the deposit of the entire final bid amount by the highest bidder / purchaser or the second highest bidder/purchaser, as the case may be, the physical vacant possession of the suit property with all the documents, original and/or otherwise, relating to and concerning with the said property shall be handed over to him/her/them, as the case may be within 2 weeks thereafter.

18. The appropriate documents conveying the title of the suit property in favour of the successful purchaser shall be executed and registered within four weeks from the date of deposit of the entire bid amount and upon the successful purchaser completing all necessary formalities for it, at the costs and expense of the successful purchaser.”

The parties may respond to the proposed terms for auction hereinabove detailed by the court and suggest additional terms or propose any modification thereof.

Therefore, matter be listed for finalizing the proposed terms of auction on **12.02.2026**, as also, whether the parties wish to go before Court Auctioneer or a Local Commissioner may be appointed for the said purpose.

Draft proclamation for the perusal of the parties and suggestions is being incorporated in the order being passed today.

List for finalization of proclamation of sale on **12.02.2026**.

Order dasti.

(HARJYOT SINGH BHALLA)
DJ-03, SOUTH-WEST, DWARKA
NEW DELHI/09.01.2026