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

+ RFA 174/2022 & CM APPLs. 20483/2022 and 20484/2022

ASHOK KUMAR OTHERS Appellants
Through: Mr. T.R. Sharma, Adv.

versus

ANUJ GUPTA OTHERS Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

% **ORDER**
28.04.2022

CM APPL. 20483/2022

Allowed, subject to just exceptions.

Application disposed of.

RFA 174/2022 & CM APPL. 20484/2022

1. Issue notice.
2. Learned counsel for the for the appellant submits that the Trial Court has erred in passing the impugned judgment decree dated December 24, 2021 inasmuch as that a person having mezzanine in the property purchased by him is not entitled to claim the area of mezzanine on the ground floor in addition to the area already in his possession. He is only entitled to construct the mezzanine in his portion and the same will be only up to the height of the roof and not more than that. He also states that the Trial Court has not considered the fact that respondent No. 1, Anuj Gupta, in his cross examination has admitted that no other portion has been purchased by his



mother except what has been mentioned in GPA and SPA. Thus, it is clear that the mother of the respondent No. 1 has only purchased the 25 Sq. Yards of the property and as such the Trial Court ought to have given finding that respondent Nos. 1 and 3 have no right over 25 Sq. Yards area.

3. The learned counsel for the appellant has drawn my attention to page 50 of the paper book to contend that vide order dated November 07, 2015, the Trial Court had directed the parties not to create any third party interest in the suit property.

4. Accordingly, the parties are directed not to create third party rights in the suit property till the next date of hearing.

5. List before Registrar on August 04, 2022.

V. KAMESWAR RAO, J

APRIL 28, 2022/ds