



\$~30

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

+ O.M.P.(EFA)(COMM.) 6/2016

**DAIICHI SANKYO COMPANY, LIMITED** ..... Decree Holder

Through: Mr. Arvind Nigam, Senior Advocate  
with Mr. Giriraj Subramaniam, Ms.  
Samridhi Hota, Mr. Shivam Chanana,  
Ms. Astha Ahuja, Ms. Shyra Hoon,  
Mr. Tanmay Arora, Mr. Sidhant  
Juyal, Mr. Kunal C., Mr. Agnish  
Aditya and Mr. Rohan Jaitley,  
Advocates.

versus

**MALVINDER MOHAN SINGH AND ORS.** ..... Judgement Debtors

Through: Mr. Varun Garg, Advocate for JD-1,  
4 and 15.  
Mr. Aditya Dewan, Advocate for JD-  
6 to JD-8.

**CORAM:**

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**ORDER**

% **21.03.2024**

**EX.APPL.(OS) 482/2024**

By way of the present application filed under Order XXI Rule 64 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the decree-holder seeks the sale of property bearing Khasra No.1580 min. (5-16) situate at Village : Asola, Tehsil Saket, New Delhi ('subject property') owned by M/s. Bindas Realtors Pvt. Ltd. To that end, the decree-holder also seeks appointment of a Court Commissioner to carry-out the sale and to deposit the sale proceeds in



court, which would then be withdrawn by the decree-holder, in accordance with law.

2. Mr. Arvind Nigam, learned senior counsel appearing for the applicant/decreed-holder submits, that *vide* order dated 22.03.2021 made in E.A. No.660/2019 under Order XXI Rule 46 read with sections 39, 46, 51 and 151 of the CPC, this court has already issued a direction for attachment *inter-alia* of the subject property, subsequent to which, *vide* order dated 10.10.2023 made in EX.APPL.(OS) 1308/2023, the court had directed that the subject property be demarcated in order to proceed with its sale by auction.
3. Mr. Nigam submits, that in compliance of order dated 10.10.2023, the Tehsildar (Saket) has undertaken demarcation of the property and has submitted report dated 27.02.2024, after publishing the requisite notice dated 31.10.2023. A copy of the Tehsildar's Report has been appended with the application. The report encloses the requisite plan/map indicating the demarcation of the subject property.
4. Issue notice.
5. Mr. Varun Garg, learned counsel appears for judgment debtors Nos.1, 4 and 15 on advance copy; accepts notice; and does not oppose the prayer made in the application. Counsel however submits, that in order to ensure that the property fetches a fair market value, the court may permit the judgment debtors also to furnish their own valuation report to the Court Commissioner.
6. Mr. Nigam has drawn attention of this court to the provisions of Order XXI Rules 66 and 67 read with Form 29 in Appendix-E to the CPC, to submit that the said provisions comprehensively set-out the



procedure to be followed by the Court Commissioner.

7. In view of the above, the application is allowed, thereby directing that the subject property, being Khasra No.1580 min. (5-16) situate at Village : Asola, Tehsil Saket, New Delhi be put to sale by auction through the Court Commissioner appointed by this court.
8. Accordingly, **Mr. Narottam Kaushal, former District Judge, Delhi (Cellphone No. : +91 9910384683)** is appointed as the Court Commissioner to carry-out the sale of the subject property by public auction, in terms of Order XXI Rule 66 CPC, within 06 weeks by issuing the requisite proclamation for sale.
9. Before doing so, the learned Court Commissioner shall obtain a valuation report in respect of the subject property from the following three sources : (i) the concerned SDM; (ii) a Government Approved Valuer; and (iii) the Decree-Holder, who may produce a valuation report from a Government Approved Valuer. Furthermore, as requested, the judgment-debtor is also permitted to submit to the learned Court Commissioner a valuation report from a Government Approved Valuer.
10. Based on such reports, the learned Court Commissioner shall suggest the 'reserve price' for auction of the subject property.
11. A draft proclamation shall be placed before the court for approval, within 03 weeks.
12. Further directions shall be passed after the draft proclamation is considered by the court.
13. The fee of the learned Court Commissioner is fixed at Rs. 05 lacs, in addition to any out-of-pocket expenses that he may incur, to be paid-



for by the decree-holder at the stage the sale proclamation is published. The out-of-pocket expenses and other expenses towards publication of proclamation, auction and sale of the subject property shall be paid-for by the decree-holder, as and when requested by the learned Court Commissioner against a memo of expenses to be issued by him.

14. Re-notify on 15<sup>th</sup> May 2024.

**EX.APPL.(OS) 481/2024**

15. By way of the present application filed under section 46 read with section 151 of the CPC, the decree-holder seeks issuance of a precept to the High Court of Judicature at Bombay, or any other appropriate court in Mumbai, Maharashtra, in respect of immovable property bearing Flat No.C – 4/5, 1st Floor, Taj Building, 210 DN Road, Fort, Mumbai, Maharashtra, ad-measuring 3625 sq. ft. ('subject flat') owned by M/s A–I Book Company Private Limited, for eventual sale towards satisfaction of the award-decree.
16. Mr. Nigam submits, that pursuant to what was recorded in order dated 15.02.2022 made by this court in EA No.660/2019 under Order XXI Rules 46 and 64 read with sections 46, 51 and 151 CPC, the *paikar* of judgment-debtor No.1 and judgement-debtor No.4 have filed affidavit dated 24.03.2022 disclosing *inter-alia* the details and particulars of the subject flat, which says that it belongs to M/s. A–I Book Company Private Limited.
17. Mr. Nigam submits, that in its judgment dated 22.09.2022 in SLP (C) No.20417/2017, the Supreme Court has directed that the properties offered by the contemnors (judgment debtors in the present case)



towards partially purging themselves of contempt, shall be available to the executing court and shall be subject to attachment and subsequent sale towards satisfaction of the award-decree.

18. Mr. Nigam points-out, that the subject flat finds mention in judgment dated 22.09.2022 at serial No.9 of the table appearing in para 24, where it is recorded that in addition to other parcels of land, the contemnors (judgment debtors in the present case) had also offered the subject flat to the decree-holders as available for sale towards purging contempt.
19. In the circumstances, Mr. Nigam prays that precept be issued to the concerned court in Mumbai for attachment of the subject flat through the High Court of Judicature at Bombay.
20. Issue notice.
21. Mr. Varun Garg, learned counsel appearing for judgment debtors Nos.1,4 and 15 and Mr. Aditya Dewan, learned counsel appearing for judgment debtors Nos.6 to 8, accept notice; and do not oppose the prayer made.
22. Accordingly, a precept is issued under section 46 of the CPC for the attachment of property bearing Flat No.C – 4/5, 1st Floor, Taj Building, 210 DN Road, Fort, Mumbai, Maharashtra.
23. Let a copy of this order be forwarded by the Registry to the Registrar/Prothonotary and Senior Master of the High Court of Judicature at Bombay.
24. Let a copy of the order be also forwarded by the decree-holder by all permissible modes including *dasti* to the Registrar/Prothonotary and Senior Master of the High Court of Judicature at Bombay.



25. Let the needful be done within 03 weeks.
26. The application stands disposed-of.

**ANUP JAIRAM BHAMBHANI, J**

**MARCH 21, 2024/ak**