

# Deepak Tyagi & Ors vs Pragya Cooperative Group Housing Ltd. & ... on 3 November, 2020

**Author: J.R. Midha**

**Bench: J.R. Midha**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (OS) 308/2018 & I.A. 7176/2020

DEEPAK TYAGI & ORS

Through:

Mr. Sandeep Bajaj, Adv

versus

PRAGYA COOPERATIVE

GROUP HOUSING LTD. & ANR.

....Defendants

Through: Mr. Sameer Abhiyankar, Ms.

Megha Choubey and Mr. Nalin

Talwa, Advocates for defendant

No.1.

Mr. Sanjoy Ghose, ASC for

GNCTD with Ms. Urvi Mohan,

Advocate for RCS.

Mr. Rajeev Bansal, Senior

Advocate with Ms. Beenashaw N.

Soni, Advocate for DDA/R3.

Mr. Yogesh Trikha, Auctioneer in  
person.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% 03.11.2020

1. The hearing has been conducted through video conference.

2. The plaintiffs have filed this suit for refund of Rs.1,60,12,306/- along with interest thereon from defendant No.1 on the averments that defendant No.1 Society is the allottee of plot of land bearing No. 1B, Sector 2, Dwarka, New Delhi by DDA on which the Society constructed 158 flats; on 22nd August, 2007, defendant No.1 published advertisement in the newspapers to invite applications from the public to fill up 10 vacancies of membership in pursuance to which the plaintiffs applied for membership on 22nd August, 2007; the Managing Committee enrolled the plaintiffs as members of the Society on 02nd September, 2007; the plaintiffs deposited various amounts on demand by defendant No.1 totaling Rs.1,60,12,306/- (plaintiff No.1 deposited Rs.23,85,113/-, plaintiff No.2

deposited Rs.23,06,033/-, plaintiff No.3 deposited Rs.23,02,659/-, plaintiff No.4 deposited Rs.20,96,234/-, plaintiff No.5 deposited Rs.22,98,609/- and plaintiff No.6 deposited Rs.46,23,658/-); in January, 2008, the Management Committee of defendant No.1 was removed and an ad-hoc Managing Committee was formed by the members of the society; vide order dated 15th May, 2008, Registrar Cooperative Society appointed SDM as Returning Officer of the Society to conduct the elections of the Managing Committee; an Administrator was appointed by order dated 05th October, 2009; vide order dated 23rd August, 2010, defendant No.2 held that the membership of the plaintiffs was not in conformity with Rule 24 and directive dated 09th November, 2004; the plaintiffs preferred a revision petition before the Financial Commissioner which was dismissed on 16th April, 2015 whereupon the plaintiffs filed writ petition bearing W.P.(C) No. 4491/2015 which was dismissed on 23rd September, 2016; the plaintiffs approached Supreme Court by SLP (CC) No.3567/2017 which was dismissed on 20th December, 2017 but the Supreme Court protected the interest of the plaintiffs by directing defendant No.1 to consider the plaintiffs request for refund of the entire amount deposited by the plaintiffs; and the plaintiffs requested defendant No.1 to refund the amount by letter dated 05th June, 2017.

3. Defendant No.1 has filed a detailed written statement raising various defenses. However, the receipt of Rs.1,54,61,656/- by defendant No.1 from the plaintiffs is not disputed. In that view of the matter, the plaintiffs are entitled to the refund of the amount paid by them to defendant No.1 along with interest at reasonable rate. During the hearing dated 19th December, 2018, this Court inquired from the President and Secretary of defendant No.1 as to why they are not refunding the amount received by them from the plaintiffs whereupon the President and Secretary of defendant No.1 submitted that the Society has no funds but they would have no objection to refund the amount if the Society is permitted to sell the six vacant flats. The relevant portion of the order dated 19th December, 2018 is reproduced hereunder:-

"1. This is a suit for recovery filed by six plaintiffs who are seeking refund of Rs.1,60,12,306/- along with interest thereon from defendant No. 1 Pragya Cooperative Group Housing Society Limited.

2. The President and Secretary of defendant No. 1, Pragya Cooperative Group Housing Society Limited are present in Court and submit, without prejudice to their rights and contentions, that they have no objection to the refund of the money if the Society is permitted to sell these six flats which were to be allotted to the plaintiff but their membership was cancelled, and, therefore, the flats are lying vacant.

3. The President and Secretary of defendant No. 1, Pragya Cooperative Group Housing Society Limited submit that the market value of one flat of the Society is more than Rs.2 crores and upon sale of the six flats, the society would be in a position to refund the amount to the plaintiffs along with the reasonable interest.

4. This Court is of the view that defendant No. 1, Pragya Cooperative Group Housing Society Limited can be permitted to sell the six flats by public auction subject to the condition that the purchaser should be eligible for membership of the society in

accordance with Rules. Upon sale of the flats by public auction, defendant No. 1, Pragya Cooperative Group Housing Society Limited would be in a position to refund the amount to the plaintiffs along with the reasonable interest and the balance amount can be used for the benefit of the society."

4. On 06th March, 2019, this Court considered DDA to be a necessary party and, therefore, DDA was impleaded as defendant No.3.

5. On 16th July, 2019, this Court considered it appropriate to direct the auction of the six flats of defendant No.1 Society. This Court appointed the Court Auctioneers to conduct the auction. Relevant portion of the order dated 16th July, 2019 is reproduced hereunder:-

"1. The plaintiffs are collectively seeking recovery of Rs.1,60,12,306/- along with interest thereon from defendant No.1.

2. Defendant No.1 has no funds to make the refund to the plaintiffs. However, defendant No.1 has ten flats. Without prejudice to its defence and in the interest of settlement of the disputes, defendant No.1 has no objection to the sale of six flats to arrange the funds for making the payment to the plaintiffs.

3. Learned counsels for the plaintiffs as well as defendant No.1 submit that a Court Auctioneer be appointed for conducting the auction of the six flats of defendant No.1.

4. In the peculiar facts and circumstances of this case and in the interest of justice, this Court is satisfied that it would be appropriate to appoint Court Auctioneer to auction six flats of Defendant No.1.

Mr.B.B. Gupta, Senior Advocate, Mobile No.9811348989 and Ms.Seema Seth, Advocate, Mobile No.9810602729 are S. Flat No. Flo Category No. or

1. A-1001 10 C

2. A-1002 10 C

3. A-1003 10 C

4. C-1002 10 C

5. C-1003 10 C

6. E-1002 10 C appointed as a Court Auctioneers to auction the following six flats of Defendant No.1:-

6. The Court Auctioneers shall take all necessary steps for auctioning aforesaid six flats, including, but not limited to, fixing reserve price of each flat and issuing advertisements for the auction in the press and online. The Court Auctioneers shall consider advertising in Government eAuctioning System websites, namely <https://eauction.gov.in> or <https://www.bankeauctions.com>.
7. Each participant in the auction will be required to deposit a bank draft/banker's cheque for Rs.5 lakh in favour of the "Registrar General, Delhi High Court" at the time of the auction.
8. The persons eligible for membership under the Delhi Co-operative Societies Act and the Rules thereunder can participate in the auction. Each participant in the auction shall make a declaration of fulfilling eligibility conditions. The format for declaration shall be prepared by the Court Auctioneers for this purpose. In case of false declaration, the amount of Rs.5 lakhs shall be forfeited.
9. The auction shall be conducted in the society premises. The auction shall be conducted flat wise as mentioned in para 5 above. The reserve price of each flat shall not be less than Rs.1 Crore.
10. The Court Auctioneers shall determine the highest bidder (H-1) as well as the second highest bidder (H-2) in respect of each flat.
11. The names of H-1 and H-2 bidders for each flat shall be declared by the Court Auctioneers. After the conclusion of the auction, the Court Auctioneers shall retain the demand draft/banker's cheque for Rs.5 lakh furnished by H-1 and H-2 bidders. The demand draft/banker's cheque submitted by unsuccessful bidders shall be returned by the Court Auctioneers.
12. Upon the highest bid being finalized, the highest bidder (H-1) shall deposit with the Court Auctioneers 25% of the reserve price of the flat by a draft/banker's cheque in the name of "Registrar General, Delhi High Court" and the Court Auctioneers shall seek the approval of the highest bid by this Court.
13. After approval of the bid, the successful bidder shall complete the formalities for membership of defendant No.1 within 15 days whereupon defendant No.1 shall send the same to Registrar, Cooperative Societies as well as Delhi Development Authority for approval. The Registrar, Cooperative Societies as well as Delhi Development Authority shall accord the necessary approval within 30 days subject to the highest bidder satisfying all the necessary formalities and eligibility criteria.
14. The highest bidder (H-1) shall deposit the balance bid amount with the Registrar General of this Court within 30 days of the approval of Registrar, Cooperative Societies and Delhi Development Authority failing which Rs.5 lakh shall be forfeited and the flat shall be then offered to H-2 bidder at the H-2 bid price.
15. The society shall issue the share certificate, allotment letter and shall handover the possession of the flat to the successful bidder within 10 days of deposit of the total bid amount by the auction purchaser.

16. The Delhi Development Authority shall execute the conveyance deed in favour of the auction purchaser within eight weeks thereafter upon the auction purchaser completing all necessary formalities of DDA.

17. The fee of the Court Auctioneers for auctioning the six flats is tentatively fixed at Rs.1 lakh for each flat. 50% of the fees shall be borne by the plaintiffs and balance 50% by defendant No.1. The Court Auctioneers shall share the aforesaid fees in equal proportion. Apart from the fees of the Court Auctioneers, the parties shall bear out of pocket expenses incurred by the Court Auctioneers for auctioning the properties in equal proportion. The plaintiffs as well as defendant No.1 shall be entitled to reimbursement of the aforesaid fees and expenses out of the sale proceeds and the necessary order in this regard shall be passed after the completion of the auction process.

18. The appropriate order with respect to disbursement of the auction proceeds to the plaintiffs shall be passed after the completion of the auction process.

6. The Court Auctioneers conducted the auction of six flats in terms of order dated 16th July, 2019. The Court Auctioneers submitted their report dated 09th October, 2019 according to which, the proclamation of the auction was published in two Hindi and two English newspapers on 25th August, 2019; the prospective participants were given inspection of flats on 01st September, 2019 and 08th September, 2019; 34 persons participated in the auction by submitting the declaration form and banker cheque/demand drafts for Rs.5,00,000/- each. As per the report, highest bid of Rs. 1,30,35,000/- was received in respect of flat No.A1001, Rs.1,42,70,000/- in respect of flat No. A-1002, Rs. 1,36,50,000/- in respect of flat No. A-1003, Rs.1,37,50,000/- in respect of flat No. C-1002, Rs.1,45,51,000/- in respect of flat No. C-1003 and Rs.1,50,40,000/- in respect of flat No. E-1002. The relevant portion of the report is reproduced hereunder:-

"REPORT OF THE COURT AUCTIONEERS MOST RESPECTFULLY SHOWETH:

1. The undersigned were appointed as the Court Auctioneers in terms of the Order dated 16.07.2019 passed by this Hon ble Court in the captioned suit, inter alia, to:-

i) auction the following six flats of the defendant No.1 Society-

S. No.	Flat No.	Floor	Category
1.	A-1001	10	C
2.	A-1002	10	C
3.	A-1003	10	C
4.	C-1002	10	C
5.	C-1003	10	C
6.	E-1002	10	C

ii) take all necessary steps for auctioning the aforesaid six flats including but not limited to fixing reserve price of each flat (reserve price of each flat was fixed by the Hon ble Court in the same Order at Rupees One Crore);

iii) issue advertisements for the auction in the press and online; and

iv) consider advertising in government e-auction system websites, namely, <https://eauction/gov.in> or <https://www.bankeauctions.com>.

The order dated 16.07.2019 is a part of the judicial record and may be perused for its true scope and contents.

2. The undersigned received a copy of the afore-referred Order from the office of the worthy Registrar (General) on 01.08.2019.

3. After coordinating with the learned counsel for the defendant No.1 Society, Mr. Sameer Abhyankar, Advocate, the undersigned visited the defendant No.1 Society on Sunday, 18.08.2019 to first inspect the afore-

noted six flats before proceeding to take further actions for auctioning for the same.

4. A Proclamation of Sale was drafted by the undersigned, taking into consideration the specific directives issued by the Hon ble Court in its Order dated 16.07.2019. 4.1The undersigned also prepared a draft of the Declaration to be filed by each participant in the auction before participating in the auction. The true copies of the said drafts of the Proclamation of Sale as also of the Declaration are annexed hereto as Annexure LC-1 & LC-2 respectively.

5. The Proclamation of Sale, a copy of which is annexed hereto as Annexure LC-1, was published in the following leading newspapers:-

i) Sunday Times of India (English Edition) on 25.08.2019;

ii) Hindustan Times (English Edition) on 25.08.2019;

iii) Nav Bharat Times (Hindi Edition) on 25.08.2019;

and

iv) Dainik Jagran (Hindi Edition) on 25.08.2019. As desired by the Hon ble Court, the said Proclamation of Sale was also advertised on [www.bankeauction.com](http://www.bankeauction.com). The true copies of the said advertisements are annexed hereto as Annexure LC-3 (Collectively).

6. As already noted in the Proclamation of Sale, the prospective participants were granted liberty to visit the defendant No.1 Society on 01.09.2019 and 08.09.2019 between 10:00 hours and 16:00 hours for the inspection of the aforementioned six flats. The necessary instructions for getting the inspection feasible for the visitors were also issued to the members of the Managing Committee of the defendant No.1 Society. They fully cooperated.

7. On the date fixed for auction, i.e., Sunday, 15.09.2019, the undersigned reached the Central Hall of the defendant No.1 Society, the venue fixed in the Proclamation of Sale for conducting the auction of the aforementioned six flats as directed by this Hon ble Court. The necessary arrangements for the participants at the venue were made by the members of the Managing Committee of the defendant No.1 Society.

8. The following intended to participate in the auction. They not only submitted the duly filled-in Declaration Forms along with their identity proofs, but also the Banker s Cheque/Demand Draft/Manager s Cheque of Rs.5,00,000/- (Rupees Five Lakhs only) each in the name of "Registrar General, Delhi High Court":-

- i) Shri Komal Prasad Singhal;
- ii) Shri Jai Bhagwan Garg;
- iii) Shri Pratik Dangra & Ms Sonam Jain Dangra;
- iv) Ms Deepika Bajaj;
- v) Shri Avijeet Kapoor & Ms. Kiran Kapoor;
- vi) Shri Radhey Shyam Jangid;
- vii) Shri Manoj Kumar Jha;
- viii) Shri Jeetender Bindal;
- ix) Shri Sanjay Narang;
- x) Shri Yogesh Trikha & Ms Rashmi Trikha;
- xi) Ms Ruchi Aggarwal & Mr. Prashant Kumar Gupta;
- xii) Shri Anil Sharma;
- xiii) Shri Amit Aggarwal;
- xiv) Ms Archita Arora;
- xv) Ms Aastha Arora;
- xvi) Shri Amandeep Garg;
- xvii) Shri Karan Arora;

xviii) Shri Parul Kumar Gupta;

xix) Ms Ishita Aggarwal;

xx) Shri Rakesh Rathee;

xxi) Ms Sapna Rani;

xxii) Shri Sachin Bhatia;

xxiii) Ms Radhika Bhatia;

xxiv) Shri Deepansh Jain;

xxv) Shri Sahil Garg;

xxvi) Shri Manoj Kumar Gaur;

xxvii) Shri Praveen Malik;

xxviii) Ms Nidhi Singh;

xxix) Shri Abhishek Mudgal;

xxx) Shri Sanjay Kumar Goel;

xxxi) Ms Disha Walia;

xxxii) Ms Anuja Sharma;

xxxiii) Ms Sushila & Mr. Hawa Singh Jakhar; and xxxiv) Ms Suruchi Baggan.

The said Declaration Forms of the aforementioned participants along with their identity proofs as received by the undersigned are annexed hereto as Annexure LC- 4 (Collectively).

8.1 It may be noted that one Mr. Neeraj Sanguri though filed his Declaration Form but instead of depositing a Banker's Cheque/Demand Draft, gave a cheque of Rs.5,00,000/-, inter alia pleading that the said Banker's Cheque/Demand Draft was on the way and would reach shortly and in my case before the conclusion of the auction of the flat for which he might be interested. As transpired later, the said Banker's Cheque/Demand Draft did not reach in time. Therefore, the undersigned disqualified him from participation in the auction.

9. The auction was taken for each flat in the sequence as noted in the Order dated 16.07.2019. The first flat to be put to auction was A-1001 on 10th floor of category „C“ in the defendant No.1 Society.



The top two highest bidders for the said flat were:-

i) Mr. Yogesh Trikha & Ms. Rashmi Trikha at Rs.1,30,35,000/- (Rupees One Crore Thirty Lakhs Thirty Five Thousand only); and

ii) Mr. Karan Arora at Rs.1,30,00,000/- (Rupees One Crore Thirty Lakhs only).

9.1 After the conclusion of the auction of flat Sr. No. 1 in the Order dated 16.07.2019, the flat at Sr. No. 2 of the said Order being flat No. A-1002 on 10th floor of category „C in the defendant No.1 Society was taken up for auction. The top two highest bidders for the said flat were:-

i) Mr. Mano Kumar Jha at Rs.1,42,70,000/-

(Rupees One Crore Forty Two Lakhs Seventy Thousand only); and

ii) Ms. Archita Arora at Rs.1,39,50,000/- (Rupees One Crore Thirty Nine Lakhs Fifty Thousand only) 9.1.1 It is pertinent to mention that though Mr. Sachin Bhatia had bid at Rs.1,42,65,000/- (Rupees One Crore Forty Two Lakhs Sixty Five Thousand only) to become the second highest bidder for this flat, but he also participated in the auction of flat No. A-1003 on 10th floor of category „C in the defendant No.1 Society where he became the highest bidder for an amount as noted hereinafter. In view of the same, Mr. Sachin Bhatia could not be considered as second highest bidder for the flat in reference.

9.1.2 It may also be noted that Ms. Radhika Bhatia had also bid for this flat in reference at Rs.1,42,00,000/- (Rupees One Crore Forty Lakhs only) but she had also bid at Rs.1,50,35,000/- for flat No. E-1002 on 10th floor of category „C in the defendant No.1 Society and therefore, with her consent, she was declared as the second highest bidder for the said flat (E-1002).

9.1.3 It was in these backgrounds that Mr. Manoj Kumar Jha and Ms Archita Arora were declared as the highest and the second highest bidder for this flat A-1002 on 10th floor of category „C in the defendant No.1 Society.

9.2 The next flat to be put on auction was flat No.A-

1003 on 10th floor of category „C in the defendant No.1 Society. The top two highest bidders for the said flat were:-

i) Mr. Radhey Shyam Jangid at Rs.1,36,50,000/-

(Rupees One Crore Thirty Six Lakhs Fifty Thousand only); and

ii) Mr. Pratik Dangra & Ms Sonam Jain Dangra at Rs.1,36,00,000/- (Rupees One Crore Thirty Six Lakhs only).

9.3 The next flat put on auction was flat No. C-1002 on 10th floor of category „C in the defendant No.1 Society. The top two highest bidders for the said flat were:-

i) Ms. Aastha Arora at Rs.1,37,50,000/- (Rupees One Crore Thirty Seven Lakhs Fifty Thousand only); and

ii) Mr. Amandeep Garg at Rs.1,37,00,000/-

(Rupees One Crore Thirty Seven Lakhs only). 9.4 Then, the flat to be put on auction was flat No. C-1003 on 10th floor of category „C in the defendant No.1 Society. The top two highest bidders for the said flat were:-

i) Mr. Sachin Bhatia at Rs.1,45,51,000/- (Rupees One Crore Forty Five Lakhs Fifty One Thousand only); and

ii) Mr. Sahil Garg at Rs.1,44,31,000/- (Rupees One Crore Forty Four Lakhs Thirty One Thousand only).

9.4.1 It is pertinent to state here that for the flat in reference, Ms Ruchi Aggarwal & Mr. Prashant Gupta had bid at Rs.1,45,50,000/- (Rupees One Crore Forty Five Lakhs Fifty Thousand only) but they also participated in the auction of flat No.E- 1002 on 10th floor of category „C in the defendant No.1 Society where they were declared the highest bidder(s). Therefore, Mr. Sahil Garg was declared as the second highest bidder for the said flat at Rs.1,44,31,000/- (Rupees One Crore Forty Four Lakhs Thirty One Thousand only).

9.5 The last flat to be auctioned was flat No. E-1002 on 10th floor of category „C in the defendant No.1 Society and the highest two bidders for this flat were:-

i) Ms. Ruchi Aggarwal & Mr. Prashant Gupta at Rs.1,50,40,000/- (Rupees One Crore Fifty Lakhs Forty Thousand only); and

ii) Ms Radhika Bhatia at Rs.1,50,35,000/- (Rupees One Crore Fifty Lakhs Thirty Five Thousand only).

10. All these proceedings for the auction concluded at about 15:30 hours.

11. The Banker's Cheque/Demand Drafts of Rs.5,00,000/- (Rupees Five Lakhs only) each deposited by all those except of the successful first and second highest bidders, as noted above, were thereafter returned to them in original against acknowledgements. The said acknowledgements were taken on the Declaration Forms earlier submitted by them with the undersigned before the commencement of the auction.

11.1 The Bank Drafts/Banker's Cheque of Rs.5,00,000/-

(Rupees Five Lakhs only) of the highest and second highest bidders for each flat as noted herein above were retained by the undersigned.

12.As per the term of the Proclamation of Sale, the highest bidder so declared was required to deposit with the undersigned 25% of the reserve price of the flat [fixed by the Hon ble Court at Rs.1,00,00,000/- (Rupees One Crore only) in its Order dated 16.07.2019] by way of Bank Drafts/Banker s cheque in the name of „Registrar General, Delhi High Court with five days from the said date.

12.1 All the highest bidders named above deposited with the undersigned the Bank Drafts/Banker s Cheque in the name of the „Registrar General, Delhi High Court for the balance amount of Rs.20,00,000/- (Rupees Twenty Lakhs only) each within five working days from the date of auction i.e., on or before 20.09.2019 alongwith their covering letters. The said covering letters are annexed hereto as Annexure LC-5 (Collectively).

13.In those background, the Bank Drafts/Banker s Cheque of Rs.5,00,000/- (Rupees Five Lakhs only) retained by the undersigned from the second highest bidders named above were permitted to be taken back by them.

14.The Demand Draft/Banker s Cheque (two in number of each highest bidder) of Rs.5,00,000/- (Rupees Five Lakhs only) and Rs.20,00,000/- (Rupees Twenty Lakhs only), thus totaling to 12 (twelve only) were deposited by the undersigned with the offices of the „Registrar General, Delhi High Court on 01.10.2019 under their covering letter of even date. A true copy of the said covering letter dated 01.10.2019 and the photo copies of the said Demand Drafts/Banker s Cheques are annexed hereto as Annexure LC-6 (Collectively).

15.In these facts, circumstances and backgrounds, this Hon ble Court may consider approving the following highest bid(s) in the aforementioned auction:-

S. No.	Flat Details*	Highest Bidder	Bid Amou (In Rupe
1	A-1001	Mr. Yogesh Trikha & Ms. Rashmi Trikha	1,30,35,0
2	A-1002	Mr. Manoj Kumar Jha	1,42,70,0
3	A-1003	Mr. Radhey Shyam Jangid	1,36,50,0
4	C-1002	Ms. Aastha Arora	1,37,50,0
5	C-1003	Mr. Sachin Bhatia	1,45,51,0
6	E-1002	Ms. Ruchi Aggarwal & Mr. Prashant Gupta	1,50,40,0

All flats on tenth floor of Category „C in the defendant No.1 - Society.

16.The report is thus submitted accordingly for the perusal and further directions, if any, of this

Hon ble Court.

Sd/-  
BRIJ BHUSHAN GUPTA  
Senior Advocate/Court  
Auctioneer  
380, Lawyers Chambers  
Block-II  
Delhi High Court  
New Delhi 110 003.  
New Delhi  
Dated: 9th October, 2019"

Sd/-  
SEEMA SETH  
Advocate/Court  
Auctioneer  
22, Lawyers Chamber  
Block-I  
Delhi High Court  
New Delhi 110 003

7. No objections were filed against the report of the Court Auctioneers. On 15th October, 2019, this Court considered the report of the Court Auctioneers and accepted the report. The relevant portion of the order dated 15th October, 2019 is reproduced hereunder:-

"1. The Court Auctioneers have submitted the report dated 09th October, 2019.

2. The plaintiffs as well as defendant No.1 society have no objection to the report. The report of the Court Auctioneers is hereby accepted.

3. All the parties shall comply with the directions contained in paras 13 to 16 of the order dated 16th July, 2019 within the time specified therein."

8. On 19th February, 2020, this Court directed the RCS and DDA to comply with para 13 of the order dated 16th July, 2019 within three weeks and the highest bidders were directed to deposit the highest bid amount with the Registrar General of this Court within two weeks thereafter.

9. On 20th August, 2020, this Court granted further four weeks time to RCS as well as DDA for compliance of the orders dated 16th July, 2019 and 19th February, 2020. However, the compliance has not been done till date.

10. The Registrar of Cooperative Societies are not complying with the order 16th July, 2019 and 19th February, 2020 on the ground that the vacancies in respect of six flats should have been filled up by inviting applications from the public to apply for membership and draw of lots should have been conducted to select the six persons and the flats should have been provided to them at the cost of construction plus equalization charges which would come to approximately Rs.60 lakhs in respect of

each flat.

11. The contention of DDA is that DDA would comply with the orders of this Court after the compliance by Registrar of Cooperative Society and DDA would be entitled to earned increase of 50% on the auction proceeds.

12. Learned counsels for the plaintiffs as well as defendant No.1 submit that the order dated 16th July, 2019 by which this Court directed the auction of the six flats, has attained finality. It is submitted that the Court Auctioneers conducted the auction of the six flats on 15th September, 2019 and they submitted the report dated 09th October, 2019 which was accepted by this Court on 15th October, 2019. It is further submitted that the sale of the six flats completed on acceptance of the report on 15th October, 2019. It is further submitted that no objections were filed by the Registrar of Cooperative Societies as well as Delhi Development Authority to the auction process. It is further submitted that the objections now raised by the Registrar of Cooperative Society do not apply to the Court Auctions.

13. Mr. B.B. Gupta, learned Senior Advocate, who conducted the Court Auction in terms of the orders of this Court submits that all the auction purchasers are eligible for membership as stipulated in para-8 of the order dated 16th July, 2019. It is further submitted that the objections raised by Registrar of Cooperative Society do not apply to the Court auctions. It is further submitted that the sale was completed on acceptance of the report by this Court on 15th October, 2019 and the auction purchasers be declared as members of defendant No.1 and Society be directed to issue the share certificate, allotment letter and handover the possession of the flats to the successful bidders in terms of para 15 of the order dated 16th July, 2019. It is further submitted that DDA be directed to execute the conveyance deed in favour of the auction purchasers.

14. This Court is satisfied that the auction of six flats of the society to the auction purchasers completed on the acceptance of the report of the Court auctioneers by this Court on 15th October, 2019. The orders dated 16th July, 2019 and 15th October, 2019 have attained finality and no objection was filed by the Registrar of Cooperative Societies as well as Delhi Development Authority. The Registrar of Cooperative Societies and DDA cannot now be permitted to raise the objections after completion of sale as back as on 15th October, 2019. That apart, the technical objections shall not apply to the Court auctions.

15. With respect to the contention of DDA, this Court is of the view that the DDA is not entitled to 50% earned increase as it is not the case of sale by the allottee but the enrolment of the auction purchasers as the original members of the society in which case, no earned increased is payable.

16. In the peculiar facts and circumstances of this case, the auction purchasers are declared to be the members of defendant No.1 society and they are hereby allotted the flats numbers mentioned in para 15 of the report of the Court Auctioneers as well as para 6 above. The auction purchasers are directed to deposit the balance bid amount with the Registrar General of this Court within 30 days. Upon deposit of the balance bid amount, defendant No.1 is directed to issue the share certificate, allotment letter and also handover the possession of the respective flats to the successful bidders

within 10 days of the deposit of the balance bid amount. DDA is directed to execute the conveyance deed in favour of the auction purchasers within four weeks thereafter. The auction purchasers are also given liberty to apply for conversion of the flats into freehold before the execution of the conveyance deed.

17. It is clarified that this order is being passed in the peculiar facts and circumstances of this case and shall not be treated as precedent.

18. List for reporting compliance and disbursement of the auction proceeds to the plaintiffs on 22nd December, 2020.

19. All the plaintiffs as well as the President and Secretary of defendant No.1 society shall remain present before this Court on the next date of hearing.

20. The order be uploaded on the website of this Court forthwith.

J.R. MIDHA, J.

NOVEMBER 03, 2020 ak/ds