

**(2011) 12 DEL CK 0141**

**Delhi High Court**

**Case No:** CS (OS) No. 1833 of 2008

Vinod Anand

APPELLANT

Vs

Kiran Suri and Others

RESPONDENT

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**Date of Decision:** Dec. 16, 2011

**Citation:** (2012) 1 AD 542

**Hon'ble Judges:** J.R. Midha, J

**Bench:** Single Bench

**Advocate:** Jaswant Singh, along with the plaintiff, for the Appellant; Suman Rawat, for R-3 along with R-3, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

J.R. Midha

I.A. No. 13358/2011

1. Vide order dated 30th March, 2009, the suit was referred to Delhi High Court Mediation and Conciliation Centre with the consent of both the parties. The parties amicably resolved all their disputes before the Delhi High Court Mediation and Conciliation Centre. The terms of the settlement are recorded in the settlement agreement dated 16th July, 2009 recorded before the learned Mediator. The suit was decreed on 28th July, 2009 in terms of the settlement agreement dated 16th July, 2009. As per the said settlement, the parties agreed to sell the suit property and share the sale proceeds in terms of paras 6(a) and (b) of the settlement agreement.
2. The parties could not sell the suit property and, therefore, vide order dated 18th August, 2010, this Court appointed a Local Commissioner to conduct the auction of the suit property. The parties were also permitted to give the inter-se bidding.
3. The plaintiff gave the highest bid of Rs. 75,25,000/- which was recorded in the order dated 14th December, 2010 and the plaintiff was directed to deposit the bid amount with the Registrar General of this Court within 90 days.

4. Vide order dated 8th March, 2011, this Court permitted the plaintiff to deposit Rs. 62,70,833/- with the Registrar General towards 5/6th share of the defendants. The plaintiff deposited the said amount on 11th March, 2011.
5. Vide order dated 16th May, 2011, the Registrar General was directed to release the amount deposited by the plaintiff in terms of the settlement agreement and defendant No. 3 was directed to hand over the keys of the suit property to the plaintiff at the time of receiving the cheque towards her share.
6. With the consent of both the parties, the order dated 16th May, 2011 was modified on 1st August, 2011. Defendant No. 3 handed over the keys of the suit property to the plaintiff on 3rd September, 2011 before the Registrar of this Court at the time of receiving the payment in terms of the order dated 1st August, 2011.
7. The plaintiff has received the vacant possession of the suit property and the defendants have received the payment of their share in terms of the order dated 1st August, 2011.
8. The plaintiff has filed this application for modification of the order dated 1st August, 2011 to the extent the plaintiff is entitled to the interest accrued on Rs. 62,70,833/- and Rs. 95,000/- deposited by the plaintiff on 11th March, 2011 and 16th May, 2011 respectively. The plaintiff's contention is that defendant No. 3 delayed the delivery of possession and, therefore, the defendants are not entitled to the interest on the amount deposited by the plaintiff.
9. The contention of defendant No. 3 is that she had agreed to hand over the vacant and peaceful possession of the suit property at the time of receiving payment. It is further submitted that no time limit for handing over the possession was fixed under the settlement agreement dated 16th July, 2011 or the orders passed by this Court from time to time.
10. This Court is of the view that the order for payment of interest is not warranted in the facts and circumstances of this case because the settlement agreement dated 16th July, 2009 as well as the subsequent orders dated 16th May, 2011 and 1st August, 2011 passed with the consent of both the parties do not provide for payment of any interest. The award of interest at this stage would amount to introducing a new condition which is not permissible in law.

The application is, therefore, dismissed.