



2026:DHC:7329



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 31.08.2026**# **CNR No. DLHC010125702026**

+ EX.F.A. 26/2026, CM APPL. 20116/2026 (Stay), CM APPL. 20117/2026 (Ex.) & CM APPL. 20118/2026 (Delay of 40 days in Re-filing the appeal)

SHAMSHAD ALI

.....Appellant

Through: Mr. Anees Ahmad Khan, Adv.

versus

SURENDER SINGH AND ORS

.....Respondents

Through: Appearance not given

CORAM:**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**% **JUDGEMENT (Oral)**

1. The present Appeal, Under Order XXI Rule 58 of the Code of Civil Procedure, 1908 ("CPC"), seeks to challenge the **Order dated 02.12.2025¹** passed by the **learned SCJ-cum-RC, West Tis Hazari Court, New Delhi²** in **Ex. Petition 334/2025³** by which the objections filed by the Appellant herein came to be disposed of.

2. This Court has heard learned counsel for the Appellant and, with his able assistance, perused the relevant material placed on record, including the Impugned Order. The learned Executing Court, while dealing with the objections, has noticed the entire course of

¹ **Impugned Order**

² **learned Executing Court**

³ **Execution Petition/Proceeding**



2026:DHC:7329



litigation leading to the execution proceedings. For the sake of completeness, the relevant findings of the learned Executing Court are extracted herein below:

13. It is pertinent to mention, that the present execution pertains to a petition that has been litigated till its hilt. The court hereby proceeds with discussing in brief the gradual progression that took place in the petition resulting in the present execution.

(1) Decree Court's Findings.

14. Perusal of record shows, that the petition U/S 14(1)(e) DRC Act was filed by the decree holder/petitioner in response to which leave to defend was filed by respondent/JD, which was allowed by the Ld. Predecessor of this court vide order dated 02.08.2024.

(2) Hon'ble High Court's Findings.

15. The order granting leave to defend was challenged before the Hon'ble High Court of Delhi and the Hon'ble High Court vide its order dated 28.01.2025, allowed the eviction petition with the observations as under:

“In the present case, the petitioner/landlord has been able to prove a better title than the respondents/tenants. It is the case of the petitioner/landlord that the original owner of the subject premises was the father of the petitioner/landlord and the father of the petitioner/landlord had let out the subject premises to the father of the respondents/tenants. Subsequently, the respondent/tenants started paying a monthly rent of Rs.500/- to the petitioner/landlord.

18. The Impugned Order has held in paragraph 28 that a triable issue has been raised qua the relationship of landlord-tenant. However, in paragraph 25, it has simultaneously given a finding that the relationship of landlord-tenant in the present case is not disputed. The relevant extract of the Impugned Order is reproduced below:

“25. The first requirement to be proved by the petitioner is the existence of landlord-tenant relationship. In Kanta Goel v. B.P. Pathak (1977) 2 SCC 814; Pal Singh v. Sunder Singh (1989) 1 SCC 444; Dhannalal v. Kalawatibai (2002) 6 SCC 16; Indian Umbrella Manufacturing Co. v. Bhagabandei Agarwalla (2004) 3 SCC 178; and Mohinder Prasad Jain v. Manohar Lal Jain (2006) 2SCC 724 it was held that the landlord, even if not the absolute owner, is at least one of the co-owner, is entitled to



2026:DHC:7329



maintain a petition under Section 14(1)(e) of the Act. **In the present case, the relationship of landlord and tenant between the parties is not disputed.**

XXXXX XXXXXX XXXX XXXXX

28. The petitioner in his counter affidavit was supposed to explain the circumstances in which the receipts were executed. The petitioner simply stated that the receipt are forged and fabricated. The petitioner further stated that if the receipt were correct, then why the respondents deposited rent in the year 2004. The respondents have also failed to give any explanation for the same. **To my mind, the respondents have been successful in raising a triable issue concerning the ownership of the suit property. Tnable issue also arises regarding the landlord tenant relationship between the parties.**

18.1 Thus , the Impugned Order cannot be sustained.”

(2) Hon’ble Supreme Court’s Findings.

16. Further, the order of the Hon’ble High Court of Delhi dated 28.01.2025 was challenged before the Hon’ble Supreme Court of India and vide its order dated 21.05.2025, Hon’ble Supreme Court of India dismissed the SLP with following directions:

“2..... In the facts and circumstances, we grant time to vacate the suit property up to 31.10.2025, subject to payment of arrears of rent within one month and regular rent on month to month basis. It is directed that the petitioner shall hand over the peaceful vacant possession of the premises to the respondent on or before 31.10.2025 and shall not part with or create third party right therein. A usual undertaking shall be filed within a period of three weeks from today before the Registrar (Judicial), High Court of Delhi. Non-filing of the undertaking shall give a cause of landlord to execute the decree and the time for vacation as specified above shall not have any bearing to the execution proceedings. Defiance of the above terms, if any, may be treated as non-compliance of the order of this court”

17.In the light of the orders recapitulated as above, this court finds no hesitation in deducing, that the objections raised vide instant application already stands adjudicated and decided by High Court

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 02.09.2026 14:38:55
EX.F.A. 26/2026



2026:DHC:7329



as well as by the Hon'ble Apex Court.

Further, court deems it fit to place reliance on the judgment of Hon'ble Supreme Court titled as **"Suresh Kumar Kohli Vs. Rakesh Jain & Anr"** dated 19.04.2018, whereby it was held as under:

"19) From a perusal of lease deed dated 15.11.1975, we find that the suit premises was let out jointly to late Shri Ishwar Chand Jain and Shri Ramesh Chand Jain, son of late Shri Ishwar Chand Jain. Thus, both of them were joint tenants and upon the death of Shri Ishwar Chand Jain, Respondent No. 1 inherited the tenancy as joint tenant only. Further, in view of a catena of decisions of this Court on the subject as well as the principles laid down in H.C. Pandey (supra), we are of the opinion that the High Court erred in holding that the decisions relied upon by learned senior counsel for the appellant are not applicable to the facts of the present case on the premise that in the given case itself the validity and binding nature of the notice given to one of the legal representatives of the deceased tenant under Section 106 of the Transfer of property Act, 1882 on other legal representatives was determined only on the basis of the fact that they hold the tenancy as joint tenants and notice given to one means notice given to all. Conclusion:-

20) We are of the view that in the light of H.C. Pandey (supra), the situation is very clear that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenant is occupation of all the joint tenants. It is not necessary for landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons who are occupying the property, as party. There may be a case where landlord is not aware of all the legal heirs of deceased tenant and impleading only those heirs who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of the joint tenant is sufficient against all the joint tenants and all joint tenants are bound by the order of the Rent Controller as joint tenancy is one tenancy and is not a tenancy split into different legal heirs. Thus, the plea of the tenants on this count must fail.

21) Even otherwise, the intervention at this belated stage of execution proceedings, in the fact and circumstances of the case, seems to be a deliberate attempt to nullify the decree passed in favour of the appellant herein as when Respondent No.1 filed objections under Section 47 Order

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 02.09.2026 14:38:55 EX.F.A. 26/2026



2026:DHC:7329



XXI of the Code, he claimed to be in possession of the suit premises, however, he failed to produce any evidence except two rent receipts for the months of December, 1993 and January 1994 that too when the Respondent No. 1 in his objection petition filed in the execution proceedings of the eviction decree has himself admitted that there exists a dispute between him and Respondent No. 2 and they had parted their ways.

18. In light of the reliance placed as above, the objection raised by the objector vide the instant application is sans merit as it is categorically held by the Hon'ble Apex Court, that the impleadment of all the LR's is not a mandatory requirement and the ratio decidendi that is applicable to one of the LR's/tenant is also applicable to all of them. Therefore, in the light of the above, the present objections stand dismissed being devoid of merits as admittedly objector is a brother of the JD's and is claiming himself to be one of the tenants, so even if he is not made a party or impleaded as one of the LR, the finding qua other tenants/LR's will be equally applicable to him.

19. Therefore, as an epilogue to the above, let fresh warrants of possession be issued for 20.12.2025 against the JD and in favour of the DH in respect of **suit property i.e. Plot No.41, Gali No.30, New Rohtak Road, Daya Basti, Anand Parbat, New Delhi-110005, more specifically shown in the site plan annexed with the petition**, as per the certified copy of the site plan on filing of PF. Further, Bailiff is directed to remove all hurdles including lock, doors etc. in order to execute present warrants of possession. Further, Bailiff is directed to take all other necessary auxiliary steps for execution of present warrants of possession. DH shall file an affidavit to the effect that there is no stay or appeal pending on the execution of the eviction order.

20. Concerned SHO is directed to provide police aid and assistance including lady police officer, if required, to the Bailiff for execution of warrant of possession."

3. Having noticed the aforesaid orders passed by this Court and the Hon'ble Supreme Court, the learned Executing Court proceeded to consider the objections preferred by the Appellant. It concluded that the objections sought to reopen issues which had already been adjudicated upon in the proceedings culminating in the Order of the Hon'ble Supreme Court.

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 02.09.2026
14:38:55

EX.F.A. 26/2026



2026:DHC:7329



4. The learned Executing Court further placed reliance upon the Judgement of the Hon'ble Supreme Court in **Suresh Kumar Kohli v. Rakesh Jain & Anr.**, dated 19.04.2018, wherein the position with respect to the rights of joint tenants and the binding effect of an eviction order upon the legal heirs of a deceased tenant was also rightly considered.

5. Applying the aforesaid principles to the facts of the case, the learned Executing Court held that the objections raised by the Appellant were devoid of merit, observing, *inter alia*, that the Appellant, being the brother of the Judgement Debtors and claiming himself to be one of the tenants, could not seek to avoid the effect of the findings rendered against the other tenants/legal heirs merely on the ground that he had not been separately impleaded. The objections were accordingly dismissed.

6. The learned Executing Court thereafter directed issuance of fresh Warrants of Possession in respect of the suit premises and further directed the Bailiff to take all necessary steps for execution thereof, including removal of any obstruction, locks or doors, as may be necessary. Police assistance was also directed to be provided for execution of the Warrants of Possession.

7. It is evident from the aforesaid sequence of events that the dispute in respect of the Subject premises has already travelled through the adjudicatory hierarchy and culminated in the Order dated 21.05.2025 passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court, while dismissing the challenge, expressly granted time to vacate the Subject premises only up to 31.10.2025 and directed that peaceful and vacant possession be handed over to the



2026:DHC:7329



Respondent on or before the said date.

8. In these circumstances, the present Appeal, insofar as it seeks to raise objections which would have the effect of reopening or substantially interfering with the rights crystallized pursuant to the Order of the Hon'ble Supreme Court, cannot be sustained. The Appellant cannot, in execution proceedings, seek to re-agitate matters which have already travelled through the appropriate adjudicatory *fora* and have culminated in a binding Order of the Hon'ble Supreme Court.

9. The execution proceedings, therefore, cannot be permitted to become a vehicle for reopening the decree or for circumventing the binding effect of the orders passed in the substantive proceedings. The scope of the present proceedings is consequently limited to execution of the decree in accordance with the orders which have already attained finality.

10. In view of the aforesaid, this Court finds no merit in the present Appeal. The Impugned Order dated 02.12.2025 does not warrant interference. The present Appeal is, accordingly, dismissed.

11. The present Appeal, along with pending Application(s), if any, stands disposed of in aforementioned terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 31, 2026/rk/DJ

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 02/09/2026 14:38:55
EX.F.A. 26/2026