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

Date of decision: 18.08.2026

CNR No. DLHC010302402025

+ **RC.REV. 155/2025, CM APPL. 29330/2025 (Stay) & CM APPL. 30388/2025 (Dir.)**

GENERAL TALKIES PRIVATE LIMITED Petitioner

Through: **Mr. Vikas Tiwari, Mr. Kumar Deepraj, Ms. Ojasvi Arora, Advocates along with Mr. Barkha Kumar, (Director of Petitioner).**

versus

NALIN KUMAR RASTOGI & ORS. Respondents

Through: **Ms. Malvika Trivedi, Senior Advocate along with Mr. Jai Sahai Endlaw, Mr. Azad Bansala, Ms. Prakriti Rastogi, Mr. Ashish Kumar and Mr. Shailendra, Advocates for Respondent No. 1.**

**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

% **JUDGEMENT (Oral)**

1. The present Revision Petition has been filed under Section 25B(8) of the **Delhi Rent Control Act, 1958¹**, seeking to set aside the **Order dated 05.05.2025²** passed by the Court of the **learned Additional Rent Controller-01, Central District, Tis Hazari**

¹ DRC Act

² Impugned Order



Courts, Delhi³ in Execution Petition No. 2323 of 2023.

FACTS:

2. The gravamen of the controversy centres around the objections filed by the Petitioner herein before the learned Executing Court and the findings returned by it, while dismissing the said objections.

3. For the sake of clarity and convenience, it is pertinent to delineate, in chronological order, the relevant events and proceedings that took place before the learned Executing Court.

4. The Eviction Order came to be passed on 25.02.2019, in favour of the Respondent herein, consequent to which, the Execution Petition came to be filed on 20.10.2023. The learned Executing Court, *vide* Order dated 10.01.2025, issued warrants of possession since there was no stay on the said proceedings. Subsequently, on 12.02.2025, when the warrants of possession were being executed, the counsel for the Petitioner herein appeared through video-conferencing and mentioned the matter before the learned Executing Court.

5. The Petitioner herein, before the learned Executing Court, firstly claimed itself to be the owner of the subject premises since the year 1970, by way of an Application filed on 12.02.2025. However, on the very same day, the learned Executing Court passed an Order staying the execution of the warrants of possession. The learned Executing Court thereafter, on the very same day at 04:00 PM, passed an Order, wherein it was directed as follows:-

“At 4.00PM

Present: Sh. Vikas Tiwari, Counsel for applicant General Talkies Pvt. Ltd. alongwith Director Ms. Barkha Kumari.

³ Learned Executing Court



None for JD
Sh. Baljeet, Counsel for DH.

Counsel for applicant has moved an application under Order 21 Rule 99 CPC on behalf of the applicant.

Copy of the application supplied to counsel for DH.

By way of the present application, it is submitted that the applicant is in occupation of the tenanted premises i.e. *one room, on the second floor, bearing pvt. no. 8, Municipal No. 1854, MJ Building, Bhagirath Palace, Chandni Chowk, Delhi —110006*. It is further submitted that the eviction order dated 25.02.2019 has been obtained by fraud and collusion. It is also stated that service was never effected at the subject premises. It is stated that even during the execution petitions, notice to the JD was not issued at the subject premises but at some other address and therefore, the applicant was not even aware about the present proceedings. It is stated that today the bailiff has come to the subject premises for execution of warrants of possession and then the applicant got to know about the present proceedings. *Hence, it is prayed that the objections may be decided and in the interim, warrants of possession may be stayed.*

On query qua the nature of the possession of applicant, it is submitted that the applicant is in possession since atleast 1970. It is however submitted that time may be given to take proper instructions qua the capacity in which the applicant is in possession since the application has been filed on urgent basis as the bailiff has already reached the subject premises for execution of warrants of possession. It is however stated that in order to show that applicant is in possession, copy of the master data of the applicant company alongwith electricity bill of the period June 2008 has also been filed.

Counsel for DH also seeks time to file reply to the said application.

Submissions heard. Record perused.

In these circumstances, interim stay is granted on the warrants of possessions till the next date of hearing only as DH seeks time to file reply and applicant seeks time to details qua his possession.

Reply, if any, be filed within seven days against advance copy.

In the meantime, applicant is also directed to file on affidavit, the date since when he is in occupation of the subject premises and the capacity in which he is in occupation of the subject premises. It is specifically made clear that in case, the applicant claims to be the owner by way of title, detail of title



documents be filed; in case, applicant claims himself to be owner by adverse possession, then the details of the true owner be filed and the time since when the possession became adverse; if the applicant claims himself to be tenant or licensee, details of the landlord/licensor be filed.

List for arguments on objections on 21.02.2025.

Date of hearing previously given stands cancelled.

Copy of this order be given dasti.”

(emphasis supplied)

6. As is apparent, the Petitioner herein was directed to file an Affidavit setting out in detail the various aspects that he sought to raise by way of an Application dated 12.02.2025.

7. Admittedly, there was no detailed Affidavit that was originally filed. However, instead of a detailed Affidavit, by virtue of a further Application dated 27.02.2025, the Petitioner herein sought to spin a different yarn altogether before the learned Executing Court.

8. By way of this second Application, the Petitioner now contended that he was in possession of the property since June 1995 as opposed to the earlier assertion that he was the owner “through some arrangement in the year 1970s”.

SUBMISSIONS:

9. *Brevitatis causa*, the case set up by the Petitioner herein is that the learned Executing Court has erred in rejecting the objections of the Petitioner as it has failed to appreciate and adjudicate the questions of fact and law, while dismissing the objections *in limine*.

10. Learned counsel appearing on behalf of the Petitioner has also sought to draw the attention of this Court to various documents that have been filed, *inter alia*, the possession letter and certain other documents, to establish that the Petitioner herein was in adverse possession of the subject premises.

11. ***Per Contra***, learned Senior Counsel for Respondent No. 1



would support the Impugned Order and would draw the attention of this Court to the two applications that came to be filed and the contrary versions taken by the Petitioner herein, before the learned Executing Court as well as this Court, to show that the conduct of the Petitioner herein has been clearly questionable.

12. Since this is the only issue that has been submitted by the learned counsel appearing on behalf of the Petitioner, this Court limits its adjudication to the extent of only this issue.

ANALYSIS AND CONCLUSION:

13. This Court has heard the learned counsel appearing for the Petitioner as well as the learned Senior Counsel for the Respondents and, with their able assistance, perused the entire material on record.

14. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioner, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the proviso to Section 25B(8) of the DRC Act.

15. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁴, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁵, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁶, has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

16. The aforesaid principles have also been reiterated and relied

⁴ (1998) 8 SCC 119

⁵ (2014) 9 SCC 78

⁶ (2022) 6 SCC 30



upon by Coordinate Benches of this Court, *inter alia*, in ***Pankaj Pahwa v. Prem Wati & Ors.***⁷, and ***Sanjeev Hiranandani v. Sunny Grover***⁸.

17. In ***Abid-Ul-Islam*** (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25B of the DRC Act, observed that the omission of an appellate remedy against an Order passed by the learned Rent Controller is conscious and deliberate. The jurisdiction conferred upon the High Court is, therefore, one of superintendence over the decision-making process, including the legality and propriety thereof, and does not permit the High Court to substitute its own view for that of the learned Rent Controller merely because another view on the material available on record may be possible. The relevant observations of the Hon'ble Supreme Court read as under:

“23. The proviso to Section 25-B(8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.”

18. In ***Pankaj Pahwa*** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in ***Abid-Ul-Islam*** (supra), reiterated that the jurisdiction exercised by this Court under the

⁷ 2024:DHC:9322



proviso to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

19. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Order suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

20. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioner against the Impugned Order are required to be examined.

21. This Court is of the view that the present is a clear case of complete lack of *bona fides*. The Petitioner on the one hand sought to put across a case which he subsequently sought to change substantially. This is an aspect which has received considerable

⁸ 2025:DHC:11285



attention by the learned ARC.

22. Learned ARC has accorded his consideration to this aspect in the following manner:-

“10. On the basis of pleadings and the arguments advanced, the crux of the issue involved between the parties is that *whether even on prima facie basis*, applicant has independent title of the portion in his occupation to resist /obstruct the execution of eviction order dated 25.02.2019 with respect to one room measuring 22'x 16' and W.C. and bathroom, in bearing pvt. no. 8, Municipal No. 1584, M. J. Building, Bhagirath Palace, Chandni Chowk, Delhi - 110006. During the course of the arguments, it is contended that the applicant has independent title by way of adverse possession to the true owner i.e. the DH/petitioner. It is also averred that since the DH/petitioner is the son of the brother of Hari Nath Rastogi, therefore, petitioner was aware of the long and continued possession of the applicant. ***Thus, it is not in dispute that the DH/petitioner is the actual/true owner of the portion qua which execution is sought to be obstructed.*** Even otherwise, it is well settled law that a plea of adverse possession can be only taken against the true owner. Adverse possession is hostile possession by assertion of a hostile title in denial of the title of the true owner as held in **M. Venkatesh v. BDA, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387.**

11. However, before proceeding to consider the merits of the plea of adverse possession, I find it pertinent to note that initially on the first application dated 12.02.2025, it was specifically pleaded in paragraph 2 that the applicant company through some arrangement had become owner of the portion in dispute in the year 1970. The said pleading is contrary to the subsequent pleadings in the second application dated 27.02.2025 wherein the plea of adverse possession has been raised. Though during the course of the arguments, it was contended that the first application was drafted in hurry and proper instructions had not been received, but the said argument by itself is not sufficient to permit the applicant to raise a new and distinct cause of action. It is also pertinent to note that no leave of the court was sought for amendment of pleadings and straightaway new grounds have been averrea. Perusal of record further shows that on 12.02.2025, when the first application was moved since the pleadings were vague as to how the applicant became owner of the portion of the tenanted premises in question, court query was raised to the counsel for applicant. ***As no proper answer was not forthcoming from the pleadings of the application, therefore, only to the limited extent of clarifying as to how the applicant became the owner of the portion in dispute, applicant was directed to file on affidavit, the date since when he***



is in occupation of the premises and the capacity in which he is in occupation of the premises. It was specifically made clear that in case, the applicant claims to be the owner by way of title, detail of title documents be filed; in case, applicant claims himself to be owner by adverse possession, then the details of the true owner be filed and the time since when the possession became adverse; if the applicant claims himself to be tenant or licensee, details of the landlord/licensor be filed. However, instead of filing the said affidavit, fresh application with improvements in pleadings as well as change of cause of action was filed without any leave of the court to amend the pleadings. Thus, the applicant has blown hot and cold. At one end, it is claimed that applicant company is in continued possession since 1970's as owner and at the other end, title by adverse possession from 1995 is being claimed. The said vacillation on the part of the applicant qua title from 1970's to adverse possession from 1995 impeaches the credibility of his contention. Perusal of record shows that stay on execution of warrants of possession had been taken on 12.02.2025 with the averment that the applicant company is owner through some arrangement since 1970's but subsequently, a contradictory plea has been taken that that the applicant is in adverse possession since 1995 and became owner on the lapse of 12 years.

However, a party cannot be permitted to adopt contradictory positions or take advantage of both sides of a situation. Applicant knowingly accepted the stay of execution order on its averment, that applicant company is owner since 1970's.

Hence, it now cannot be allowed to approbate and reprobate that applicant is in adverse possession since 1995 and not owner since the 1970's. Furthermore, the contention of the first application was drafted in a hurry as the warrants of possession were being executed also does not inspire confidence. Order 21 Rule 99 CPC provides an equally efficacious remedy to a party claiming independent title dispossessed through execution as available to a party obstructing execution under Order 21 Rule 97 CPC. Therefore, had proper instructions not received, the applicant company was not bound to falsely aver that it is in possession since 1970's as owner.

12. It is also pertinent to note that vide order dated 12.02.2025, applicant company was directed to clarify only the status of possession by the NDOH i.e. 21.02.2025 and not raise a new or distinct ground. Furthermore, it was not on the next date of hearing i.e. 21.02.2025 that the second application with the aforementioned new cause of action was filed. Rather after the reply had already been filed by the DH to his previous application, the applicant filed the second application with contrary pleadings to the first application without seeking leave of the court to amend the pleadings. No opportunity was given to DH to oppose the proposed amendment in the pleadings as well. Further, without any notice to



the DH and without the leave of the court, the second application with amended pleadings was filed. It is trite to state that pleadings form backbone of the litigation and therefore, care must be taken while drafted the same. If every party to a litigation starts claiming different stands on each subsequent date of hearing on the ground that the prior application was drafting in hurry, then the entire system would collapse. Hence, the principle of the denying a party to blow hot and cold is based upon rule of equity in order to ensure fairness. Accordingly, given the said approbation and reprobation on the part of the applicant with respect to his pleadings and claims qua the independent title, since 1970's and 1995, the application is liable to be dismissed on this ground alone.”

(emphasis supplied)

23. The reasoning adopted by the learned Executing Court, in the considered opinion of this Court, does not suffer from any infirmity warranting interference in the exercise of the limited revisional jurisdiction of this Court. The record itself demonstrates that the Petitioner had adopted materially inconsistent and irreconcilable stands with regard to the very basis and nature of its alleged right over the subject premises.

24. A perusal of the first Application dated 12.02.2025, on the basis of which the Petitioner had initially approached the learned Executing Court, shows that the case sought to be set up was that the Petitioner had become the owner of the subject premises “through some arrangement in the 1970s” and had continued to remain in possession thereof. It was this assertion which formed the basis upon which the learned Executing Court granted an interim stay of the warrants of possession and afforded the Petitioner an opportunity to clarify the precise nature and capacity of its possession.

25. Significantly, the Order dated 12.02.2025 did not grant the Petitioner an unbridled opportunity to substitute the case originally pleaded with an altogether new case. On the contrary, the learned Executing Court had specifically directed the Petitioner to file an



Affidavit clarifying the date from which it was in occupation of the subject premises and the capacity in which such occupation was being claimed. The learned Executing Court had further required the Petitioner to furnish the relevant particulars depending upon whether its claim was founded upon title, adverse possession, tenancy or licence.

26. The Petitioner, however, admittedly did not file the Affidavit as directed. Instead, after the Respondent had filed its reply to the first Application, the Petitioner chose to file a fresh Application dated 27.02.2025, propounding an entirely different basis for resisting the Execution Proceedings. The claim of ownership through “some arrangement in the 1970s” was now replaced by a plea that the Petitioner had been in possession since June 1995 and had acquired title by way of adverse possession.

27. This Court finds no merit in the contention that the subsequent Application merely clarified or elaborated upon the case originally set up. The two stands are fundamentally distinct. A claim that the Petitioner became “owner of the premises through some arrangement in the 1970s” proceeds on an assertion of acquisition of title, whereas a plea of adverse possession necessarily proceeds on the recognition of title in another and an assertion that the possession of the claimant had become hostile to such title. These two pleas cannot be casually interchanged, particularly when the Petitioner had approached the learned Executing Court on an urgent basis and had obtained interim protection on the strength of the first assertion.

28. The explanation sought to be advanced by the Petitioner that the first Application had been prepared in haste and without complete



instructions is equally unpersuasive. As rightly observed by the learned Executing Court, the Petitioner was not required to make a positive assertion regarding its ownership since the 1970s merely because the Application was being moved urgently. More importantly, the remedy available under Order XXI of the CPC did not stand foreclosed merely because the Petitioner was unable to immediately ascertain or plead the precise nature of its alleged independent right. The urgency of the situation could not furnish a justification for placing one case before the Court, obtaining an interim order on the basis thereof, and thereafter substituting the very foundation of that case with another and inconsistent claim.

29. The learned Executing Court has also correctly taken note of the fact that the Petitioner did not seek leave to amend its earlier pleadings. The second Application was filed after the Respondent had already filed its reply to the first Application and sought to introduce a new and distinct basis of claim. The learned Executing Court was, therefore, justified in examining the conduct of the Petitioner and in concluding that such vacillation materially affected the credibility of the claim being advanced.

30. It is well settled that a litigant cannot be permitted to approbate and reprobate or take mutually destructive stands so as to suit the exigencies of the situation. The principle is founded upon considerations of fairness and equity and seeks to prevent a party from obtaining an advantage before a Court on the basis of one representation and thereafter resiling from that representation when it no longer serves its purpose. In the present case, the Petitioner had secured an interim stay of the warrants of possession on the assertion



that it had been in possession as owner since the 1970s. It could not thereafter, without any satisfactory explanation and without seeking an appropriate amendment, abandon that very assertion and set up a plea of acquisition of title by adverse possession commencing from 1995.

31. Quite apart from the inconsistent stands taken by the Petitioner, this Court finds that the plea of adverse possession, as sought to be raised by the Petitioner, does not inspire confidence even on its own terms. It is well settled that a plea of adverse possession necessarily presupposes the acknowledgment of title in another person, against whom the possession is asserted to have become hostile. A person claiming title by adverse possession must, therefore, plead and establish, with the requisite degree of specificity, the identity of the true owner, the date from which its possession became hostile to such owner, the nature of such hostile possession and its continuity for the statutory period.

32. In the present case, the Petitioner initially asserted that it had itself become the owner of the subject premises “through some arrangement in the 1970s”. Subsequently, however, the Petitioner sought to contend that it had acquired title by adverse possession on account of its continued possession since June 1995. The inherent contradiction between these two pleas assumes significance. While the former assertion proceeds on the premise that the Petitioner had acquired title in its own right in the 1970s, the latter necessarily proceeds on the basis that the title vested in another person and that the Petitioner's possession subsequently became hostile to such title.

33. The Petitioner cannot simultaneously assert an independent title over the subject premises and, in the absence of any clear and



consistent pleading as to when and against whom its possession became hostile, seek to derive title by adverse possession. Mere long, continuous or uninterrupted possession, by itself, does not ripen into ownership. The essential requirement is that such possession must be *nec vi, nec clam, nec precario*, namely, peaceful, open and continuous, and, more importantly, hostile to the title of the true owner for the period prescribed by law.

34. The learned Executing Court has rightly noticed that the plea of adverse possession was introduced only subsequently and that the Petitioner had failed to furnish a consistent and cogent explanation regarding the commencement of its alleged hostile possession. The assertion that the Petitioner had been in possession since June 1995, without specifically establishing the point of time at which such possession became adverse to the true owner and the circumstances demonstrating an unequivocal assertion of hostile title, could not, by itself, constitute a legally sustainable foundation for resisting the execution of the Eviction Order.

35. Significantly, the plea of adverse possession cannot be founded merely upon the duration of possession. The Petitioner was required to demonstrate, at the very least, a clear and unequivocal case as to the identity of the person against whom adverse possession was claimed and the precise point of time from which its possession became hostile to the title of such person. In the absence of such foundational pleadings, the learned Executing Court cannot be faulted for declining to entertain the plea, particularly when the Petitioner had, in its earlier Application, asserted an entirely inconsistent claim of ownership since the 1970s.



36. Therefore, even assuming that the Petitioner was entitled to raise the plea of adverse possession in the execution proceedings, the material placed on record does not disclose such a clear, consistent and specific case as would warrant an adjudication in favour of the Petitioner. The finding of the learned Executing Court that the plea was an afterthought and was inconsistent with the Petitioner's original stand is, therefore, borne out from the record and does not suffer from any perversity or material irregularity.

37. This Court is also unable to accept the contention that the learned Executing Court was required to conduct a detailed inquiry into the documents subsequently sought to be relied upon by the Petitioner, including the possession letter and other material. The primary difficulty in the case of the Petitioner arises from the shifting and inconsistent foundation of its own claim. The learned Executing Court has not dismissed the objections without application of mind. Rather, it has considered the pleadings, the sequence of events, the nature of the directions issued on 12.02.2025 and the subsequent conduct of the Petitioner, and has thereafter recorded cogent reasons for concluding that the objections were liable to be rejected.

38. It is pertinent that the revisional jurisdiction of this Court cannot be invoked to undertake a fresh or independent appraisal of the material and to determine whether, notwithstanding the inconsistent stands taken by the Petitioner, another conclusion on the merits may have been possible. The question before this Court is whether the decision-making process adopted by the learned Court suffers from such perversity, illegality or material irregularity as would justify interference under the proviso to Section 25B(8) of the DRC Act.



39. Applying the aforesaid test, this Court finds no such infirmity in the Impugned Order. The learned Court has taken into consideration the relevant material and has assigned detailed reasons for rejecting the objections. The conclusion that the Petitioner had taken contradictory stands regarding the source, nature and commencement of its alleged title cannot be said to be either perverse or unsupported by the record. Nor can it be said that any material contention raised by the Petitioner was left unconsidered.

40. The attempt of the Petitioner before this Court to place reliance upon various documents does not alter the aforesaid position. This Court cannot, in the exercise of its limited revisional jurisdiction, permit the Petitioner to overcome the fundamental inconsistencies in its pleadings by undertaking a fresh examination of the evidence and documents in order to construct a case different from the one which was considered by the learned Court. Such an exercise would amount to converting the present revision into a proceeding in the nature of a first appeal, which is clearly impermissible.

41. This Court is, therefore, of the considered view that the finding of the learned Court that the Petitioner had blown hot and cold and had adopted inconsistent positions regarding its alleged independent title is based upon a proper appreciation of the record. The conclusion that such conduct disentitled the Petitioner from the relief sought cannot be termed arbitrary, illegal or perverse.

42. Consequently, even on the merits, this Court finds no ground to interfere with the Impugned Order dated 05.05.2025. The present Revision Petition is, accordingly, dismissed.

43. The present Petition, along with pending application(s), if any,



stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 18, 2026/nd/va

Signature Not Verified

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BHATIA
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