



2025:AHJ-REC:19

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

S.C.C. REVISION No. - 22 of 2025

State Of U.P. Through Collector Ayodhya

.....Revisionist(s)

Versus

Samarath Narayan And 3 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)

: Mohit Jauhari

Counsel for Opposite Party(s)

: C.S.C.

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Sudeep Kumar, the learned Senior Advocate and Additional Advocate General along with Sri Nishant Shukla, the learned Additional Chief Standing Counsel for the revisionist - State of U.P., Sri Manoj Kumar Mishra and Shri Jai Prakash Singh Advocates, the learned counsel for the opposite party Nos.1, 2 and 3 and Shri Sharad Dwivedi Advocate, the learned counsel for the opposite party No.4- State Bank of India.

2. By means of the instant revision filed under Section 25 of the Provincial Small Causes Courts Act, 1887, the revisionist - State of U.P. has challenged the validity of an order dated 16.12.2025 passed by the Special Judge E.C. Act/Additional District and Sessions Judge, Court No.4, Ayodhya in Miscellaneous Civil Case No.7 of 2025, rejecting an application under Order XXI Rule 99 read with Rule 101 C.P.C.

3. As copies of all the relevant documents have been annexed with the memo of revision, there is no necessity of summoning the record of the executing Court. Further, as the learned counsel for the petitioner has advanced submissions regarding maintainability of the application under Order XXI Rule 99 read with 101 CPC only and has not proposed to press the merits of the application, the learned counsel for the opposite parties have stated that they do not propose to file a counter affidavit and they have advanced submissions in opposition of the revision. Accordingly, the revision is being decided finally at the admission stage.

4. The aforesaid case arises out of SCC Suit No.2 of 1999 filed by the opposite parties No.1, 2 and 3 for ejectment of the opposite party No.4 -

State Bank of India from the property which is described in the plaint as follows:-

"DESCRIPTION OF THE PREMISES IN SUIT

As described in the compromise with annexed site plan dated 03.12.1901 signed & filed by the parties in S.C.C.No. 1 of 1978 in the court of Judge S.C.C. (IInd. A.D.J., Faizabad) Faizabad & which was accepted by the parties also in lease deed dated 05.12.1981 relating thereto and which is described below and also for more clarity described in the annexed site plan.

Building with out-houses bearing Nagar Palika H.No.1/13/284 Civil Lines, FAIZABAD alongwith adjoining land marked by letters A B C D E F G H in the annexed site plan which is in occupation of defendant's main Branch, Civil Lines, Faizabad."

5. A site plan is annexed with the plaint which shows a bank building constructed on a small area towards the Northern side of the property in dispute, some out-houses constructed at the South-Western corner of the property and a large chunk of open land. The site plan does not specify the area covered by the bank building and the out-houses and the area of the open land. It mentions the total area as 83,300 sq. ft. approximately. The suit was decreed by a judgment dated 29.05.2008. The decree has attained finality up to the Hon'ble Supreme Court.

6. The plaintiffs - decree holders filed Execution Case No.8 of 2008 for execution of the decree dated 29.05.2008. The State of U.P. filed an application under Order XXI Rule 97 (1) read with Section 47 C.P.C. which was rejected by means of an order dated 28.10.2025 holding the same to be not maintainable. The State filed an application for recall of the order dated 28.10.2025 which application was rejected by means of an order dated 3.11.2025. Thereafter the State filed an application dated 18.11.2025 under Order XXI Rule 99 read with Rule 101 C.P.C. *inter alia* stating that in the year 1876 Nazool department had executed a lease deed in respect of 14 bigha 14 biswa land in favour of Raja Pratap Narayan Singh and Raja Brij Narayan Singh for a period of 99 years. Raja Pratap Narayan Singh constructed a Kothi, some outhouses and other structures and he had transferred 6 bigha 6 biswansi 15 kachhuwansi 3 anuwansi land to M/s Awadh Commercial Bank Ltd., through a registered deed dated 04.12.1915. On 19.01.1916, Awadh Commercial Bank executed a registered deed transferring the aforesaid property to Shri Ram Raghuvir Lal. On 01.04.1923 the purchaser - Shri Ram Raghuvir Lal had leased out the structures to Imperial Bank of India. The 99 years duration of lease expired on

21.05.1975 but Imperial Bank of India and thereafter its successor - State Bank of India, continued to occupy the building in its tenancy. The plaintiffs are descendants of Late Ram Raghuvir Lal, the lesser who had let out the premises to Imperial Bank of India and thus, the plaintiffs became land-lords of State Bank of India and the suit for ejectment of the tenant filed by them has been decreed. During execution proceedings instituted by the decree holders – the opposite party Nos.1, 2 and 3, the State of U. P. filed the aforesaid application stating that after expiry of the 99 years' term of lease on 21.05.1975, the property stands reverted to the original lesser of Raja Pratap Narayan Singh and Raja Brij Narayan Singh, i.e., the State of U.P.

7. It has also been stated in the application that the opposite party Nos.1, 2 and 3 had filed applications for conversion of lease hold rights into free hold rights upon which lease hold rights of two portions of the land in dispute measuring 34,000 sq. ft. and 4,000 sq. ft. were converted into free hold rights.

8. Learned counsel for the petitioner has submitted that the entire area leased out by Nazool in respect of Raja Pratap Narayan Singh and Raja Brij Narayan Singh in the year 1876, was 14 bigha 14 biswa, which comes to about 1,74,000 sq. ft. Out of the aforesaid area, merely 38,000 sq. ft has been converted to free hold land of the opposite party Nos.1, 2 and 3. The remaining 83,000 sq. ft. continued to be lease hold property and after expiry of lease on 21.05.1975, the lessees or their tranferees/descendants have no right in respect of the property in question. In these circumstances, the petitioner had filed an application under Order XXI Rules 99 and 101 C.P.C.

9. The trial Court has rejected the application by means of the impugned order dated 16.12.2025 by holding that the State of U.P. has not been dispossessed in execution of the decree and it is the tenant- State Bank of India which is being dispossessed. Therefore, the application under Order XXI Rule 99 read with Rule 101 CPC filed by the State is not maintainable.

10. Assailing validity of the aforesaid order, Sri. Sudeep Kumar, the learned Additional Advocate General has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal and Anr**, (1997) 3 SCC 694.

11. Order XXI Rule 99 read with Rule 101 CPC provide as follows:-

"99. Dispossession by decree-holder or purchaser-(1) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application

to the Court complaining of such dispossession.

(2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

* * *

101. Question to be determined. All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 or Rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions."

12. In **Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal and Anr**, (1997) 3 SCC 694 , the Hon'ble Supreme Court has held as follows: -

"8. A conjoint reading of Order 21, Rules 97, 98, 99 and 101 projects the following picture:

(1) If a decree-holder is resisted or obstructed in execution of the decree for possession with the result that the decree for possession could not be executed in the normal manner by obtaining warrant for possession under Order 21, Rule 35 then the decree-holder has to move an application under Order 21, Rule 97 for removal of such obstruction and after hearing the decree-holder and the obstructionist the court can pass appropriate orders after adjudicating upon the controversy between the parties as enjoined by Order 21, Rule 97, sub-rule (2) read with Order 21, Rule 98. It is obvious that after such adjudication if it is found that the resistance or obstruction was occasioned without a just cause by the judgment-debtor or by some other person at his instigation or on his behalf then such obstruction or resistance would be removed as per Order 21, Rule 98, sub-rule (2) and the decree-holder would be permitted to be put in possession. Even in such an eventuality the order passed would be treated as a decree under Order 21, Rule 101 and no separate suit would lie against such order meaning thereby the only remedy would be to prefer an appeal before the appropriate appellate court against such deemed decree.

(2) If for any reason a stranger to the decree is already dispossessed of the suit property relating to which he claims any right, title or interest before his getting any opportunity to resist or offer obstruction on the spot on account of his absence from the place or for any other valid reason then his remedy would lie in filing an application under Order 21, Rule 99 CPC claiming that his dispossession was illegal and that possession deserves to be restored to him. If such an application is allowed after adjudication then as enjoined by Order 21, Rule 98, sub-rule (1) CPC the executing court can direct the stranger applicant under Order 21, Rule 99 to be put in possession of the property or if his application is found to be substanceless, it has to be dismissed. Such an order passed by the executing court disposing of the

application one way or the other under Order 21, Rule 98, sub-rule (1) would be deemed to be a decree as laid down by Order 21, Rule 103 and would be appealable before appropriate appellate forum. But no separate suit would lie against such orders as clearly enjoined by Order 21, Rule 101.

9. In short the aforesaid statutory provisions of Order 21 lay down a complete code for resolving all disputes pertaining to execution of the decree for possession obtained by a decree-holder and whose attempts at executing the said decree meet with rough weather. Once resistance is offered by a purported stranger to the decree and which comes to be noted by the executing court as well as by the decree-holder the remedy available to the decree-holder against such an obstructionist is only under Order 21, Rule 97, sub-rule (1) and he cannot bypass such obstruction and insist on reissuance of warrant for possession under Order 21, Rule 35 with the help of police force, as that course would amount to bypassing and circumventing the procedure laid down under Order 21, Rule 97 in connection with removal of obstruction of purported strangers to the decree. Once such an obstruction is on the record of the executing court it is difficult to appreciate how the executing court can tell such obstructionist that he must first lose possession and then only his remedy is to move an application under Order 21, Rule 99 CPC and pray for restoration of possession. The High Court by the impugned order and judgment has taken the view that the only remedy available to a stranger to the decree who claims any independent right, title or interest in the decretal property is to go by Order 21, Rule 99. This view of the High Court on the aforesaid statutory scheme is clearly unsustainable. It is easy to visualise that a stranger to the decree who claims an independent right, title and interest in the decretal property can offer his resistance before getting actually dispossessed. He can equally agitate his grievance and claim for adjudication of his independent right, title and interest in the decretal property even after losing possession as per Order 21, Rule 99. Order 21, Rule 97 deals with a stage which is prior to the actual execution of the decree for possession wherein the grievance of the obstructionist can be adjudicated upon before actual delivery of possession to the decree-holder. While Order 21, Rule 99 on the other hand deals with the subsequent stage in the execution proceedings where a stranger claiming any right, title and interest in the decretal property might have got actually dispossessed and claims restoration of possession on adjudication of his independent right, title and interest dehors the interest of the judgment-debtor. Both these types of enquiries in connection with the right, title and interest of a stranger to the decree are clearly contemplated by the aforesaid scheme of Order 21 and it is not as if that such a stranger to the decree can come in the picture only at the final stage after losing possession and not before it if he is vigilant enough to raise his objection and obstruction before the warrant for possession gets actually executed against him. With respect the High Court has totally ignored the scheme of Order 21, Rule 97 in this connection by taking the view that only remedy of such stranger to the decree lies under Order 21, Rule 99 and he has no locus standi to get adjudication of his claim prior to the actual

delivery of possession to the decree-holder in the execution proceedings. The view taken by the High Court in this connection also results in patent breach of principles of natural justice as the obstructionist, who alleges to have any independent right, title and interest in the decretal property and who is admittedly not a party to the decree even though making a grievance right in time before the warrant for execution is actually executed, would be told off the gates and his grievance would not be considered or heard on merits and he would be thrown off lock, stock and barrel by use of police force by the decree-holder. That would obviously result in irreparable injury to such obstructionist whose grievance would go overboard without being considered on merits and such obstructionist would be condemned totally unheard. Such an order of the executing court, therefore, would fail also on the ground of non-compliance with basic principles of natural justice. On the contrary the statutory scheme envisaged by Order 21, Rule 97 CPC as discussed earlier clearly guards against such a pitfall and provides a statutory remedy both to the decree-holder as well as to the obstructionist to have their respective say in the matter and to get proper adjudication before the executing court and it is that adjudication which subject to the hierarchy of appeals would remain binding between the parties to such proceedings and separate suit would be barred with a view to seeing that multiplicity of proceedings and parallel proceedings are avoided and the gamut laid down by Order 21, Rules 97 to 103 would remain a complete code and the sole remedy for the parties concerned to have their grievances once and for all finally resolved in execution proceedings themselves."

13. Shri Manoj Kumar Mishra, the learned counsel for the opposite party Nos.1, 2 and 3 has raised two-fold preliminary objections. The first objection is that the Execution Case No.08 of 2008 has finally been disposed of by means of an order dated 02.01.2026. In these circumstances, the instant revision, challenging the order dated 16.12.2025 passed in execution case would not be maintainable without a challenge being made to the order dated 02.01.2026 which decides the execution case finally. His second objection is that the State of U.P. has filed Regular Suit No.1521 of 2025 which is pending in the Court of learned Additional Civil Judge, S.D.-II/ A.C.J.M., Ayodhya. This fact has been concealed by filing this instant revision.

14. In reply to the aforesaid objections, the learned Additional Advocate General has submitted that the petitioners had filed an application under Order XXI Rule 99 read with Rule 101 CPC, which was registered as a separate Miscellaneous Case No.7 of 2025. The petitioner's application was rejected by the impugned order dated 18.12.2025 whereby Misc. Case No. 7 of 2025 instituted by the petitioner was dismissed and the petitioner is aggrieved by that order only. Execution Case No.08 of 2008 was filed by the decree holders - the opposite parties no. 1, 2 and 3 against the judgment debtor – the opposite party No.4 State Bank Of India and not against the

petitioner - State of U.P. Execution Case No. 08 of 2008 has been finally decided against State Bank of India only by the order dated 02.01.2026. The order dated 02.01.2026 has not been passed against the State of U.P. and it does not cause any prejudice to the State of U.P. Therefore, the State has no grievance against the order dated 02.01.2026 and, therefore, the State has rightly not challenged this order.

15. Regarding the other preliminary objection, the learned Additional Advocate General has submitted that the fact of filing of a Regular Suit for declaration does not in any manner affect the legality and validity of the impugned order dated 16.12.2025 rejecting the petitioner's application under Order XXI Rule 99 read with Rule 101 CPC and, therefore, this fact is not at all relevant for adjudication of instant revision.

16. Having considered the preliminary objection raised by the learned counsel for the opposite party Nos.1, 2 and 3 and the submissions advanced by the learned Additional Advocate General in reply thereto, I am satisfied that the scope of the instant SCC revision is regarding validity of the order dated 16.12.2025 passed in Misc. Case No. 7 of 2025 rejecting the State's application under Order XXI Rule 99 read with Rule 101 CPC as not maintainable and, therefore, the State need not challenge the order dated 02.01.2026 passed in Execution Case No. 8 of 2008. Further, the fact of filing of a regular suit for declaration is not at all relevant as it does not affect the validity of the impugned order dated 16.12.2025 passed in Misc. Case No. 7 of 2025. Therefore, non-disclosure of filing of a regular suit cannot be said to be concealment of any material fact affecting the entertainability of the civil revision. Therefore, I find no force in both the preliminary objections raised by the learned Counsel for the opposite party nos. 1 to 3 and, accordingly, both the preliminary objections are rejected.

17. Shri Manoj Kumar Mishra, the learned counsel for the opposite party Nos.1, 2 and 3 has submitted that the State of U.P. was never in possession of the property and the property was in possession of the tenant Imperial Bank of India and thereafter, the State Bank Of India. The opposite party Nos.1, 2 and 3 have obtained possession of the property from their tenant-State Bank of India in execution proceedings.

18. It is correct that the property was in physical possession of the tenant but the tenant had taken possession under a lease deed dated 01.04.1923 granted by Sri. Ram Raghuvir Lal, who himself was the lessee of the property. Ownership of the property continued to remain vested with the nazool department of the State Government. Upon expiry of the term of lease, the lesser-Nazool / State Government gets proprietary possession of the property

and also acquires the right to recover physical possession of the property. Therefore, in view of the law laid down by the Hon'ble Supreme Court in **Brahmdeo Chaudhary** (Supra), the application filed by the petitioner – State of U. P. under Order XXI Rule 99 read with Rule 101 C.P.C. was maintainable and it has wrongly been rejected as not maintainable.

19. The learned counsel for the opposite party Nos.1, 2 and 3 has advanced detailed submissions, but he could not dispute the submission of learned Additional Advocate General that the application under Order XXI Rule 99 read with Rule 101 CPC was maintainable and it ought to have been decided on its merits. Accordingly, I am of the considered view that the patent error in rejecting the State's application under Order XXI Rule 99 read with Rule 101 C.P.C. as not maintainable.

20. Although the order dated 02.01.2026 passed by the executing Court mentions that the State has filed an application for deferring the execution case till disposal of the temporary injunction application filed in the regular suit and it rejects the same, substantively the order dated 02.01.2026 states that the execution proceedings already stands completed as the Amin has submitted a report that possession of the entire building has been handed over in execution of the decree and it does not make a mention of possession of vacant land having been handed over to the decree holder. The learned counsel for the opposite party Nos.1, 2 and 3 have placed before the Court a copy of a report dated 22.12.2025 submitted by the Court Amin which makes a mention that possession of the entire property has been handed over to the decree holder.

21. On 24.12.2025, the executing Court has passed an order wherein the following directions have been issued:-

(i) The decree holders have been permitted to replace the barbed wire fencing by iron fencing so as to secure the front portion of the property situated towards the jail road in the Northern direction and the Tehsil road in the Southern direction which has been vacated by the judgment debtor State Bank of India.

(ii) The trial Court has directed removal of a sign board put by the Nazool department towards the Southern side of the land, stating that the same has been put up illegally. Copies of the orders dated 23.12.2025 24.12.2025 passed by the executing Court have been ordered to be sent to the following persons through special messenger immediately:-

- (i) State Bank Of India, Regional Office,
Ayodhya (Judgement Dettor)
- (ii) District Magistrate, Ayodhya.
- (iii) S.S.P., Ayodhya
- (iv) Naib Nazool Tehsildar, Ayodhya
- (v) Police Post In-charge, Civil Lines, Ayodhya

22. Strangely, the Presiding Officer of the executing Court has written a letter dated 24.12.2025 addressed to the aforesaid five authorities stating that possession of a major portion of the land has been delivered to the decree holder but proceedings for execution in respect of building was pending. The Presiding Officer has written in the letter that applications under Order XXI Rule 97 CPC and under Order XXI Rule 99 CPC filed by the State have already been rejected and no stay order has been passed by the High Court or the Hon'ble Supreme Court in this regard. The Presiding Officer sent copies of the orders dated 23.12.2025 and 24.12.2025 with the letter stating that in case any person creates any obstacle in possession of the property, proceedings under various provisions of Bhartiya Nyaya Sanhita will be instituted against him. The letter states that the copies of the orders were being made available to the authorities concerned so that they may ensure compliance of the order.

23. The aforesaid conduct of the Presiding Officer of the executing Court indicates that the officer has gone beyond his jurisdiction, apparently, in order to provide undue benefit to the opposite party Nos.1, 2 and 3.

24. The learned counsel for the opposite party Nos.1, 2 and 3 has produced a copy of an order dated 08.12.2025 passed by this Court in Matter under Article 227 No.7028 of 2025 whereby this Court had dismissed a petition under Article 227 of the Constitution of India filed by the opposite party No.4 - State Bank Of India challenging the validity of an order dated 14.11.2025 passed by the District Judge, Ayodhya rejecting Transfer Application No.167 of 2025 filed by the State Bank of India seeking transfer of execution case on the ground that the conduct of the Presiding Officer of the Court had given a reasonable apprehension in the mind of the judgment debtor that he was biased in favour of the decree holders and the judgment debtor would not get justice from that Officer. At that time, this Court was not satisfied about the apprehension of bias of the Presiding Officer of the Court from the material available before the Court up to that stage. However, having gone through the subsequent orders passed by the Presiding Officer

of the executing Court, I am *prima facie* satisfied that the Presiding Officer has he has wrongly rejected the State's application under Order XXI Rule 99 read with Rule 101 C.P.C. and he has acted in a biased and partisan manner in passing the orders in execution proceedings and sending letters to the authorities so as to give an undue benefit to the decree holders.

25. In view of the foregoing discussion, the revision is **allowed**. The impugned order dated 16.12.2025 passed by the Special Judge E.C. Act/Additional District and Sessions Judge, Court No.4, Ayodhya in Miscellaneous Civil Case No.7 of 2025 is hereby **set-aside**. Keeping in view the peculiar facts and circumstances of the case, the matter is remanded to the District Judge, Ayodhya who shall decide it himself and shall not transfer to any other Court.

26. Keeping in view the submission of the learned counsel for the petitioner that out of a total of 1,74,000 sq. ft. land leased by Nazool in the year 1876, only about 38,000 sq. ft. has been made free hold and the remaining 83,000 sq. ft. has not been converted into free hold and the lease hold rights in respect of the said land already stand expired in the year 1975, it is provided that till decision of the application under Order XXI Rule 99 read with Rule 101 CPC, the parties shall maintain status-quo regarding the entire property in dispute, shall not change its nature by raising any construction thereon and shall not create any third party interest.

27. Let a copy of this order be placed before the Hon'ble Administrative Judge for District- Ayodhya for his information and necessary action, if any.

January 3, 2026

-Amit K-

(Subhash Vidyarthi,J.)