



CR-6578 of 2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 19.09.2025

Pronounced on: 26.09.2025

I. CR No. 6578 of 2024 (O&M)

Dove Foods Pvt. Ltd.

...Petitioner

Versus

Vimal Joshi & Ors.

...Respondents

II. CR No. 6587 of 2024

Dove Foods Pvt. Ltd.

...Petitioner

Versus

Vimal Joshi & Ors.

...Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by: Mr. Divanshu Jain, Advocate
For the petitioner.

Mr. Akshay Jindal, Advocate
For respondents No.1 and 2.

Mr. R.S. Athwal, Advocate
For respondent No.3.

DEEPAK GUPTA, J.

This petition raises the narrow question: '*Whether in execution proceedings, a third party objector can, as a matter of right, insist that issues must be framed so as to dispose of his objections.*'

2. By an order dated 30.09.2023 (Annexure P-7), Ld. Rent Controller, Panchkula, allowed an ejectment petition under Section 13 of Haryana Urban (Control of Rent and Eviction) Act, 1973 preferred by the landlords Vimal Joshi and Smt. Monica Joshi (*Respondents No.1 and 2 herein*) and passed an order for ejectment against the tenant - Mr. Jatinder Singh (*Respondent No.3 herein*).

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3. When landlords sought execution of the ejectment order, M/s Dove Foods Pvt. Ltd. (*the present petitioner*), represented by its Director Mr. Sunil Dutt, filed third-party objections under Order XXI Rule 97 CPC claiming to be the lawful tenant and objected to the execution. The petitioner relied inter alia on (i) a series of cheques drawn in favour of the landlords between 2009 and 2019, (ii) VAT/TIN records, (iii) evidence of transfer of business, fittings and the right to use the brand name '*Degchi*', and (iv) an agreement dated 05.02.2019, which the landlords are alleged to have forged. It was claimed that petitioner had taken over already running restaurant namely – '*Degchi*' from its proprietor Jatinder Singh with the consent of landlords.

4. After taking reply from the petitioner-decree holders, who opposed the objections, and the replication by the third-party objector, the Executing Court, vide order dated 29.05.2024 (*Annexure P-22*), adjourned the matter for consideration of the said third-party objections and the stay application and thereafter, on an application for correction of that order, passed order dated 16.09.2024 (*Annexure P-24*), declining to frame issues and held that there was no need for framing issues, observing that the Rent Controller had already dealt with the relevant points in the ejectment proceedings. These two orders are challenged in the present petition.

Submissions on behalf of Petitioner:

5.1 Learned counsel for the petitioner contends that the petitioner has been in lawful possession of the demised premises since 01.01.2009; that the cheques issued by the petitioner were encashed by the landlords up to May 2019; and that the petitioner took over the business (including fittings and the brand) from Respondent No.3. Said petitioner i.e. M/s Dove Foods Pvt. Ltd., is a distinct and juristic entity, with which respondent No.3 Jatinder Singh Dua has no concern whatsoever. It is submitted that these facts, along with VAT/TIN and other documents, supports the claim of petitioner.

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5.2 It is further submitted that respondents No.1 and 2 fabricated a rent agreement dated 05.02.2019 and, on its basis, filed the ejectment petition. Although respondent No.3 moved an application under Order I Rule 10(1) CPC seeking deletion of his name, but the same was rejected. Ld. Counsel also points out that while the eviction order dated 30.09.2023 ultimately rested upon an old rent agreement dated 01.03.2000 and not the forged 2019 rent agreement, the ejectment order was nonetheless passed without impleading the petitioner-company. Reliance is placed on rent payments, cheques, VAT/TIN details and other records to establish tenancy of the petitioner since 2009.

5.3 It is contended further that initially, on 29.05.2024, the case was adjourned for framing the issues, but later, on 16.09.2024, the Court wrongly held that there was no need to frame issues as the Rent Controller had already considered the matter.

5.4 It is urged that facts and circumstances of this case create a triable controversy, which the Executing Court must decide and, therefore, issues ought to be framed. Prayer is accordingly made for setting aside the impugned orders.

Response on behalf of respondents N: 1 & 2 – landlords:

6.1 ***Per contra***, learned counsel for respondents No.1 and 2 submits that a third-party objector has no absolute right to insist upon framing of issues; and that framing of issues is a matter of judicial discretion to be exercised by the Executing Court in rare and exceptional cases; that in any event the Rent Controller had already considered and decided the points raised. Reliance is placed upon ***Rahul S. Shah v. Jinendra Kumar Gandhi (AIR 2021 (SC) 2161)*** to contend that framing of issues by the Executing Court is not mandatory as a matter of course.

6.2 Learned counsel for landlords – respondents N: 1 & 2 submits further that Jatinder was inducted as tenant in 2000 under a rent agreement executed by the landlords' predecessors. Clause 4 of that

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agreement restricted the use of the premises to running “Degchi,” while clause 5 prohibited any other use. Though Jatinder later claimed that his tenancy ended in 2008–09, but the record showed that “Degchi” continued operations in the tenanted premises thereafter.

6.3 Ld. Counsel further contends that no document evidences any transfer of tenancy rights or business from Jatinder to the petitioner-company. Counsel stresses that such transfer to a private limited company could not have been oral, given its juristic status and corporate formalities. Summons reports and evidence on record also do not show Dove Foods as the tenant.

6.4 It is pointed out further that Jatinder was initially proceeded ex parte. After landlords examined two witnesses, he applied to set aside the ex parte order, without disclosing how he had knowledge of the proceedings. The Rent Controller noted that his attempts were only to delay the proceedings. Moreover, in one of his applications, Jatinder himself pleaded that Dove Foods had taken a franchise of “Degchi,” thereby admitting that “Degchi” was operating at the premises till 2022. No franchise agreement, however, was ever produced. Further, Jatinder avoided entering the witness box to escape cross-examination. It is contended that in fact, petitioner herein is colluding with the respondent No.3 Jatinder and factually, it is respondent No.3 who was inducted as a tenant in the demise premises.

Analysis by this court:

7. This court has considered submissions of both the sides and has appraised the paper-book.

8. From the rival submissions advanced, it emerges that while the landlords seek to portray the third-party objections as frivolous and dilatory, the objector asserts that it is the true tenant of the premises and

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that its rights cannot be ignored and the same should be decided by framing issues.

9.1 In ***Rahul S. Shah v. Jinendra Kumar Gandhi (supra)***, Hon'ble Supreme Court observed that execution proceedings had emerged as the weakest link in the civil justice system. Despite securing decrees, decree-holders were often unable to reap the benefits of litigation for years owing to inordinate delays, frivolous objections, and systemic inefficiencies. Execution was frequently treated as a fresh round of litigation, with judgment-debtors and third parties repeatedly raising resistance. The problem was compounded by defective decrees lacking clarity regarding the subject property or liability.

9.2 Hon'ble Supreme Court emphatically held that a decree-holder should not be deprived of the fruits of litigation because of endless execution proceedings. Litigation, it stressed, must attain a final and effective conclusion, and courts are duty-bound to ensure that decrees are clear, executable, and promptly enforced.

9.3 With a view of streamlining procedure, curbing abuse of process, and ensuring speedy and effective enforcement of decrees, the Hon'ble Supreme Court issued a set of binding directions so that justice does not end merely with the passing of a decree, but reaches the decree-holder in reality. Among these, the following directions are significant:

- Courts exercising powers under Section 47 or Order XXI CPC should not issue notice on third-party applications in a mechanical manner. Further, applications which have already been adjudicated, or which raise issues that could and ought to have been raised during trial with due diligence, should not be entertained at the stage of execution.
- Recording of evidence in execution proceedings should be permitted only in rare and exceptional cases, and only where disputed



questions of fact cannot be resolved by quicker means such as appointing a Commissioner, or relying on electronic material like photographs or video evidence supported by affidavits.

- Execution proceedings must be completed within *six months* of filing, with reasons recorded for any extension.

10. In the present case, a close reading of the impugned order dated 16.09.2024 reveals that the Executing Court did not finally reject the objections; rather, it merely declined the request for framing of issues, holding that it was unnecessary at that stage. The matter was adjourned to 18.10.2024 for consideration of the objections and the accompanying stay application. Thus, it is evident that the objections of the petitioner-objector have not yet been adjudicated on merits.

11. It is true that the substance of the claims now raised by the objector had earlier been urged before Ld. Rent Controller while passing the eviction order, but it must be kept in mind that the petitioner-company was not a party to those proceedings. The application under Order I Rule 10 CPC, moved by the initial tenant Jatinder Singh for striking out his name, was dismissed. Therefore, strictly speaking, the objector did not have an opportunity of being heard in the original eviction proceedings.

12. Even then, the governing principles laid down by the Hon'ble Supreme Court in ***Rahul S. Shah v. Jinendra Kumar Gandhi (supra)*** make it clear that execution proceedings cannot be converted into a retrial. The Hon'ble Supreme Court has emphasized that issues, which could or ought to have been raised with due diligence during the trial stage cannot be permitted to be re-agitated at the time of execution. Entertaining such pleas would defeat the very object of execution, which is intended to secure expeditious enforcement of decrees.

13. In the present case, even if the objector was not a party before the Rent Controller, the Executing Court still retains discretion to decide



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whether framing of issues is necessary. That discretion must be exercised sparingly and only in rare situations, where resolution of disputed facts cannot otherwise be achieved. Here, the objections essentially turn on documents already on record, such as rent agreements, payment instruments, and corporate records. These can be evaluated without the elaborate process of framing issues and recording exhaustive evidence. To insist otherwise would inevitably protract the proceedings and frustrate the decree-holder’s rights, which is impermissible in light of the settled law.

14. Accordingly, this Court finds no perversity or illegality in the approach adopted by the Executing Court in declining to frame issues. The order under challenge does not foreclose consideration of the objections themselves, which remain pending for adjudication. It merely preserves procedural economy consistent with the mandate of **Rahul S. Shah (supra)**.

15. Consequently, finding no merit in the present petition, the same is dismissed.

16. Before parting, it is clarified that this Court has refrained from expressing any view on the merits of the third-party objections. Both parties have advanced detailed submissions on their respective claims; however, such arguments must be assessed by the Executing Court independently at the stage of final disposal of the objections, without being influenced by any observations made in this order by this court.

26.09.2025

Jiten

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No