



\$-

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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

+ **EX.F.A. 8/2019, CM APPLs. 13044/2019, 13046/2019,**
23958/2022, 32489/2022 & 18979/2023

Between: -

VINEET TIWARI

LATE SHRI VISHWAMITRA TIWARI,
PRESENTLY RESIDING AT
B-7/50, SAFDARJUNG ENCLAVE,
NEW DELHI

....APPELLANT

(Through: Mr. Bhavya Sethi, Mr. Anshul Tyagi, Mr. Amit Malik, Mr. Anupam Sharma, Mr. Akash Garg, Mr. Shubham Garg and Mr. Raghbendra Kumar, Advs.)

AND

1. HARINDER PAL SINGH CHAWLA (DECEASED)

THROUGH REPRESENTATIVE
MS. KIRAN ABNASHI CHAWLA
N-258, FIRST FLOOR
GREATER KAILASH PAIT-1
NEW DELHI

2. NIRMAL CHAWLA DANIERE

D/O LATE GOPAL SINGH CHAWLA
R/O 42, DANA STREET, CAMBRIDGE
MASSACHUSETTS, USA



3. AAKASH SRIVASTAVA
S/O SHRI ANUP KR. SRIVASTAVA
R/O D-II/137, KAKA NAGAR,
NEW DELHI

....RESPONDENTS

*(Through: Mr. Abhishek Kumar Rao, Mr. Shailesh Suman, Advs.
With respondent-Kiran Abnashi Chawla. Mr. Akhil Sibal, Senior Adv.
With Mr. Avijit Dikshit, Ms. Jahnvi Sindhu and Mr. Utkarsh
Srivastava, Advs. for R-3.)*

+ **EX.F.A. 9/2019, CM APPL. 13074/2019, CM APPL.
28958/2019, CM APPL. 23960/2022 & CM APPL. 18978/2023**

Between: -

AAKARSH SRIVASTAVA
S/O SH ANUP KUMAR SRIVASTAVA,
R/O- D-2/137, KAKA NAGAR, NEW DELHI-110003

....APPELLANT

*(Through: Mr. Akhil Sibal, Senior Adv. With Mr. Avijit Dikshit, Ms.
Jahnvi Sindhu and Mr. Utkarsh Srivastava, Advs.)*

AND

1. HARINDER PAL SINGH CHAWLA (NOW DECEASED)
AND REPRESENTED BY MS KIRAN ABNASHI CHAWLA
D/O- LATE SH ABNASHI CHAWLA
R/O- 1ST FLOOR, N-258, GREATER KAILASH PART 1,
NEW DELHI-110048

2. VINEET TIWARI
S/O LATE SH VISHWAMITRA TIWARI
R/O E-210, GREATER KAILASH PART II,
NEW DELHI-110048



AND AT
C-67, DEFENCE COLONY, NEW DELHI-110024

3. NIRMAL CHAWLA DANIERE
D/O LATE SH GOPAL SINGH CHAWLA
R/O 42, DANA STREET, CAMBRIDGE,
MASSACHUSETTS, USA

....RESPONDENTS

(Through: Mr. Abhishek Kumar Rao, Mr. Shailesh Suman, Advs.
With respondent-Kiran Abnashi Chawla.)

%

Reserved on: 03.12.2024

Pronounced on: 12.02.2025

J U D G M E N T

The present case places this Court in a position similar to the one in which the Privy Council found itself in *The General Manager of The Raj Durbhunga, Under the Court of Wards vs. Maharajah Coomar Ramaput Singh*¹, decided in 1872, and, more recently, the Supreme Court found itself in *Jini Dhanrajgir v. Shibu Mathew & Anr.*² The common thread underlying both decisions is a prophetic observation that the real difficulties of the litigants begin once they have obtained a decree. These appeals have arisen out of a common impugned order dated 07.03.2019, passed by Additional District Judge-03, South East District, Saket Courts, Delhi in *Execution*

¹ 1872 SCC OnLine PC 16

² 2023 SCC OnLine SC 643



No.77/2017, rejecting the objections submitted by the appellants/judgment debtors. The objections were filed under the purported ambit of Order XXI Rule 97 and Rules 103 and 104 of the Code of Civil Procedure, 1908 (*hereinafter referred to as CPC*).

DESCRIPTION OF PARTIES

<u>Ex. F. A. 09/2019:</u> Aakarsh Shrivastava v. Harinder Pal Singh (Now deceased and represented by Ms. Kiran Abnashi Chawla)		
Name of the Party	Before Executing Court	Before this Court
Mr. Aakarsh Shrivastava	Objector/ Judgment Debtor No. 3	Appellant in <i>EX.F.A. 9/2019</i>
Mr. Harinder Pal Singh Chawla (Deceased) Thr. Ms. Kiran Abnashi Chawla	Decree Holder	Respondent No. 1
Mr. Vineet Tiwari	Objector/Judgment Debtor No. 1	Respondent No. 2
Ms. Nirmal Chawla Daniere	Objector/Judgment Debtor No. 2	Respondent No. 3



Ex. F. A. 08/2019: Vineet Tiwari v. Harinder Pal Singh (Now deceased and represented by Ms. Kiran Abnashi Chawla)		
Name of the Party	Before Executing Court	Before this Court
Mr. Vineet Tiwari	Objector/Judgment Debtor No. 1	Appellant
Mr. Harinder Pal Singh Chawla (Deceased) Thr. Ms. Kiran Abnashi Chawla	Decree Holder	Respondent No. 1
Ms. Nirmal Chawla Daniere	Objector/Judgment Debtor No. 2	Respondent No. 2
Mr. Aakarsh Shrivastava	Objector/ Judgment Debtor No. 3	Respondent No. 3

2. The appellants/objectors were Mr. Vineet Tiwari, Judgment Debtor No.1 (*hereinafter referred to as JD-1*), and Mr. Aakarsh Shrivastava, Judgment Debtor No.3 (*hereinafter referred to as JD-3*), respectively. Notably, the appellant/JD-3, Mr. Aakarsh Shrivastava, in *EX.F.A. 9/2019* is the subsequent transferee/assignee of JD-1. The objections were filed against the execution of the decree in judgment dated 26.04.2012, passed by this Court in CRP No. 65/2007. The legal battle concerns a part of the ground floor portion of H. No. N-258,



Greater Kailash-I, described as a 'two-room garage block with front and rear lawns' (*hereinafter referred to as the suit property*).

SUBMISSIONS

3. Learned counsel, Mr. Abhishek Kumar Rao, appearing on behalf of the respondent/Decree Holder (*hereinafter referred to as DH*) urges the Court to first rule on his objection to the maintainability of these first appeals. Hence, the parties have extensively argued on the said issue.

4. The learned counsel, draws the attention of this Court to the order dated 21.10.2021, and submits the objection of maintainability of these appeals was raised at the earliest available opportunity.

5. According to him, the appellant/JD-3, Mr. Aakarsh Srivastava, is a transferee *pendente lite*, and appellant/JD-1 Mr. Vineet Tiwari, is a JD. Therefore, they both stand obligated by the judgment and decree dated 26.04.2012. He further submits that an order passed under Section 47 read with Rule 35 of Order XXI of the CPC cannot be construed to be a *decree*.

6. Learned counsel submits that Section 52 of the Transfer of Property Act, 1882 (*hereinafter referred to as TPA*) mandates that during the pendency of a suit, till the complete satisfaction or discharge of the final decree, '*the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court*'.

He submits that under no circumstances, the transferee *pendente lite*



could have contested the right of the Decree-Holder over the suit property.

7. He submits that Order XXI Rule 102 renders the adjudication mechanism, enshrined under Order XXI Rule 98 to Rule 100 of the CPC, inapplicable to the transferee *pendente lite*. According to him, Order XXI Rule 102 of the CPC, 1908 stipulates that the effect of Order XXI Rule 103 of the CPC does not extend to a transferee *pendente lite*, implying that the protections and procedures outlined in Rule 103 are not extendable to any individual to whom the property has been transferred during the pendency of the suit. To substantiate his argument, he places reliance on the decisions of the Supreme Court in the case of *Silverline Forum Pvt. Ltd. Vs. Rajiv Trust & Anr*³, *Usha Sinha v. Dina Ram & Anr.*⁴ and *Tej Pal Singh vs. Hardit Singh*⁵.

8. On the other hand, Mr. P. D. Gupta, learned senior counsel appearing in *EX.F.A. 8/2019*, on behalf of the appellant/JD-1 submits that the appellant herein is admittedly, a JD and therefore, the decision on any objection under Order XXI Rule 98 of the CPC, 1908 by the Executing Court is appealable in view of the provisions of Order XXI Rule 103 of the CPC. He submits that he raised a specific objection before the Executing Court and the said objection was not countered, therefore, at this stage, the respondent/DH cannot raise any objection

³ (1998) 3 SCC 723

⁴ (2007) 7 SCC 144

⁵ 1980 SCC OnLine Del 144



regarding the maintainability of the first appeal. According to him, the execution petition itself was not maintainable before the Executing Court and therefore, the JD reserves all rights to challenge the execution proceedings. He further submits that in any case, if the Court finds that the appeal is not maintainable, it can always direct for conversion of the instant proceedings to a petition under Article 227 of the Constitution of India. Learned senior counsel places reliance on a decision of the Supreme Court in the case of *Asgar v. Mohan Varma*,⁶ to corroborate his argument.

9. Mr. Akhil Sibal, learned senior counsel appearing on behalf of the appellant/JD-3 in *EX.F.A. 9/2019*, took this Court through the scheme of Order XXI Rule 97 to 106 of the CPC and emphasized that the appellant/JD-3 herein, specifically challenged the *locus* of the respondent/DH to maintain the said execution proceeding, which remained uncontroverted and, therefore, the decision on his application is amenable to be challenged in an appeal.

10. Learned senior counsel submits that according to him, Order XXI Rule 102 of the CPC creates no bar in filing an appeal, rather Rule 102, at best, can be construed to debar a transferee *pendente lite* to raise an objection to the execution of a judgment and decree. He further submits that in the instant case, before the Executing Court, no objection was raised by the respondent/DH regarding appellant/JD-3 not having *locus standi* on the ground of his being a transferee

⁶ (2020) 16 SCC 230



pendente lite, and in any case, the matter would require adjudication on the aforesaid aspect as to whether an objection at his instance was not maintainable. He emphasized the decision of ***S. Rajeswari v. S.N. Kulasekaran and Others***⁷ to validate his submission.

11. Learned counsel further submits that all the claims concerning the suit property stood settled by way of a settlement between him and the Class I legal heir of the deceased Decree holder.

12. He further argues that the doctrine of *lis pendens* will not be attracted to the facts of the present case as the appellant/JD-3 does not qualify as a transferee *pendente lite* as there was no pendency of litigation and the rights already stood settled between the parties. Additionally, the Executing Court never examined the locus of the appellant/JD-3, however, the Court proceeded to hear the case and decided the same on merits.

ANALYSIS

13. I have heard learned counsel for the parties and have perused the record.

14. Original plaintiff, namely, deceased Harinder Pal Singh Chawla had filed the civil suit under Section 6 of the Specific Relief Act, 1963 (*hereinafter 'SRA'*) on 27.06.1994, *inter alia*, stating that House no. N-258, Greater Kailash-I, New Delhi was owned by his sister Mrs. Raj Chawla Sahni, and after her death on 05.06.1984, the ground floor of the suit property came to be owned by respondent no.2, namely, Mrs.

⁷ (2006) 4 SCC 412



Nirmal Chawla Daniere and the first floor came to his share under the Will of Mrs. Raj Chawla Sahni.

15. Mr. Harinder Pal Singh Chawla further claimed in the plaint that he had been in possession of the entire premises of House No. N-258 since 1988/89 onwards. The ground floor portion which belonged to respondent no.2 Mrs. Nirmal Chawla Daniere, was permitted to be occupied by Mr. Harinder Pal Singh Chawla when she was permanently residing in the USA. He, therefore, stated that he was in possession of the ground floor which included the suit property. He further stated that he was dispossessed illegally from the ground floor dwelling unit of house no. N-258 by his sister on 29.05.1991, but she could not succeed in her attempt to evict him from the suit property. But subsequently, on 24.12.1993, he was illegally dispossessed from the suit property by his sister Mrs. Nirmal Chawla Daniere, and defendant no.1 therein, Mr. Vineet Tiwari.

16. Mr. Vineet Tiwari is one of the appellants in the instant proceedings. It was alleged that Mr. Vineet Tiwari was a builder who led illegal and unauthorized construction in connivance with municipal and police officers/officials, with whom respondent no. 2, Mrs. Nirmal Chawla Daniere, had already entered into a deal to sell the ground floor of house no. N-258, which belonged to her.

17. The suit was contested by Mrs. Nirmal Chawla Daniere and Mr. Vineet Tiwari and they filed their separate written statements refuting the submissions of Mr. Harinder Pal Singh Chawla.

18. The Trial Court, after framing the issues, proceeded to record



the evidence of the parties. The Trial Court found that the plaintiff therein, Mr. Harinder Pal Singh Chawla, was in possession of the suit property on 24.12.1993, and was illegally dispossessed by the defendants therein on that date.

19. The suit was found to be maintainable under Section 6 of the Act, 1963 having been filed on 26.06.1994, and was within the limitation.

20. The suit, however, was rejected on the ground that even though Mr. Harinder Pal Singh Chawla was found to be in possession of the suit property on 24.12.1993, he had failed to establish that his possession was settled and uninterrupted and further, even if that was so, his possession could only be that of the agent of his sister, defendant no.2, namely, Mrs. Nirmal Chawla Daniere, and, therefore, actual possession of the suit property was with defendant no.2 Mrs. Nirmal Chawla Daniere and consequently, his dispossession could not be said to fall within the ambit of Section 6 of the Act of 1963.

21. In a revision petition i.e., C.R.P. 65/2007, the original plaintiff Mr. Harinder Pal Singh Chawla challenged the decision of dismissal of the civil suit before this Court.

22. This Court *vide* its final decree dated 26.04.2012, found that house no. N-258 comprised a dwelling unit of a separate garage-cum-servant quarter block. Therefore, it could not be inferred from the plaint of the earlier suit for injunction that he had been dispossessed from the entire ground floor including the suit property.

23. This Court found that Mr. Harinder Pal Singh Chawla, plaintiff



therein, was clearly in possession of the entire house no. N-258 until 29.05.1991 and was illegally dispossessed from the dwelling unit. Mr. Harinder Pal Singh Chawla was, therefore, found to be in possession from 1988/89 till 24.12.1993, and on that basis, he could maintain the suit under Section 6 of the Act of 1963.

24. This Court in its final judgment dated 26.04.2012 has held as under: -

“11. I am also of the view that the finding of the learned trial Court that the plaintiff had failed to establish that his possession of the suit property was settled one also cannot be sustained at all. The plaintiff had categorically pleaded in his plaint of the present suit that he had been living in the entire ground floor from 1988-89 onwards. I have already reproduced the reply of defendant no. 2 to para no. 4(d) of the plaint wherein he had claimed so. A perusal of that reply of defendant no. 2 shows that she had not categorically denied the plaintiff's claim about his being in possession of the entire house No. N-458. All that she had claimed was that taking advantage of the fact that she was settled in USA the plaintiff had been claiming himself to be the owner of the entire house no. N-458. That plea could not be said to be a denial of the plaintiff's claim that he was in actual physical possession also of the entire house no. N-458. Therefore, it is clear that plaintiff's claim that he was in possession of the entire house No. N-458 till 29th May, 1991, when he was dispossessed from the dwelling unit, stood established. Since the learned trial Court itself had come to the conclusion that on 24th December, 1993 he was in possession of the suit property it also becomes clear that as far as the possession of the suit property is concerned, the plaintiff was in possession thereof from 1988-89 till 24th December, 1993 and so on that basis he could maintain the suit under Section 6 of the Act of 1963.

12. The third reason given by the learned trial Court for rejecting the suit of the plaintiff also cannot be sustained at all. The learned trial Court had come to the conclusion that the possession of the plaintiff in respect of the suit property was that of an agent of his sister. That was not even the case of defendant no. 2 in her written statement nor had she entered into the witness box to depose to that effect and, therefore, no such finding could have been given by the



learned trial Court and in the impugned judgment a new case, which was not even set up by the defendant no. 2 herself, has been made out by the learned trial Court which is not permissible in law.

13. I am, therefore, of the view that the impugned judgment cannot be sustained at all. This revision petition is, therefore, allowed and the impugned judgment and decree of the trial Court are set aside. There shall now be a decree for possession in respect of the suit property in favour of the plaintiff and against the defendants. That would, however, not debar defendant no. 1, who now claims to be the owner of the suit property, from getting possession of the suit property in an independent legal proceeding based on his own title."

25. It is thus seen that there is a judgment and decree in favour of Mr. Harinder Pal Singh Chawla, the original plaintiff which unequivocally states that the plaintiff therein is entitled to a decree of possession. The Court, however, observed that defendant no.1, therein i.e., Mr. Vineet Tiwari shall be entitled to agitate his claim in independent legal proceedings based on his title.

26. It is crucial to note that defendant no. 1, Mr. Vineet Tiwari, one of the appellants, asserted that he purchased the entire ground floor, including the suit property, from Mrs. Nirmal Chawla Daniere vide a registered sale deed dated 27.12.1993. He further claimed that he was put in possession of the purchased property on the same day. Consequently, it is evident that Mr. Harinder Pal Singh Chawla was dispossessed on 24.12.1993, while the disputed sale deed was executed on 27.12.1993. Moreover, the suit was filed on 27.06.1994.

27. Mr. Vineet Tiwari filed a Special Leave Petition (SLP) bearing SLP(C) No. 19099/2012 before the Supreme Court, challenging the judgment dated 26.04.2012. However, the SLP No. 20480/2012 was filed by Mrs. Nirmal Chawla Daniere. During the pendency of the



SLP, an application was filed to implead the legal heir of Mr. Harinder Pal Singh Chawla, who had reportedly passed away on 3 April 2014 in the USA. Mr. Vineet Tiwari, therefore, stated that the deceased Mr. Harinder Pal Singh Chawla was survived by one legal heir i.e., his wife namely, Ms. Marguerite La Susa Chawla, resident of 38 Spy Hill, Poughkeepsie, New York.

28. Another application, I.A. 6/2015, was filed in the pending SLP by Ms. Kiran Abnashi Chawla, seeking her impleadment on the ground that the right to represent the estate of Mr. Harinder Pal Singh Chawla had passed to her. This claim was based on a Will and testament dated 3.12.2013, through which he had transferred all his properties, shares, claims, etc., to a trust. It was stated that late Mr. Harinder Pal Singh Chawla had appointed the executors namely, Ms. Kiran Abnashi Chawla and Mr. Vishal Singh.

29. The records show that on 15.03.2016, SLP 19099/2012 and SLP 20480/2012 were listed. The substitution was granted, and the application to set aside the abatement was approved. Consequently, the special leave petition was dismissed. The order dated 15.03.2016 passed by the Supreme Court reads as under:-

*“SLP(C) No. 19099/2012
Delay condoned.
Substitution allowed.
Application for setting aside abatement allowed.
The special leave petition is dismissed.
The Application, is any also stands disposed of.
SLP (C) 204801/2012
The special leave petition is dismissed as withdrawn.”*



30. Following the dismissal of the SLP, Interlocutory Applications I.A. 2-4/2015 and I.A. 6-7/2015 were filed in the disposed of SLP. The Supreme Court took note of the fact that *vide* order dated 15.03.2016, the Supreme Court allowed the applications for setting aside the abatement as well as the application for substitution by the concerned applicant. Since a conflicting position was taken by the concerned applicant about their right to execute the decree for and on behalf of the deceased plaintiff namely Mr. Harinder Pal Singh Chawla, to do complete justice, the Supreme Court appointed a Court receiver in respect of the suit schedule property.

31. The Supreme Court further elucidated that, *vide* its order dated 15.03.2016, it granted all the applicants, without prejudice to the rights and contentions of the respective parties, the liberty to pursue their claims in accordance with law. This includes advocating for the original plaintiff's cause and representing his estate. The parties were left free to seek any remedy permissible by law for appropriate declarations and consequential reliefs, including pursuing the execution of the decree concerning the scheduled property in Suit No. 158/2006 (previously Suit No. 680/1994). For the sake of clarity, the order dated 06.02.2017 passed by the Supreme Court is reproduced as under:-

“This matter is placed before us to clarify the doubt expressed in the office Report dated 25.04.2016. While dismissing the Special Leave Petition on 15.03.2016, this Court allowed the application for setting aside abatement as well as application for substitution filed by the concerned applicant. As conflicting position is taken by the concerned applicant(s) about their right to execute the decree for



and on behalf of the deceased plaintiff, to do complete justice, we deem it just and proper to appoint a Court receiver in respect of the suit scheduled property, who will take symbolic possession of the stated property and allow the parties, already in possession, to continue to remain in possession without crating any right, title or interest therein and also subject to such orders that may be finally passed by the appropriate Court as to the entitlement to get the decree of possession relating to the suit scheduled property executed for and on behalf of the deceased plaintiff. All contentions available to the respective parties in that behalf are kept open.

In order words, we have allowed all applications vide order dated 15.03.2016 without prejudice to the rights and contentions of the respective parties to pursue their claim including to espouse the cause of the original plaintiff and to represent his estate. Thus, the parties will be free to take recourse to such remedy as may be permissible in law for appropriate declaration and consequential reliefs including to pursue the execution of the decree in suit scheduled property in Suit No. 158 of 2006 (Old Suit No. 680 of 1994).

We have requested Ms. Rohini Musa, Advocate, to act as Court Receiver. She has graciously accepted the request. Accordingly, we appoint her as Court Receiver in terms of this order.

The Court Receiver may submit a status report to this Court within three months, on which date, we may consider the issue regarding remuneration and other expenses to be disbursed to the Court Receiver.

In view of the above, no further directions are necessary or the Officer Report under consideration.

Post on 05.05.2017, for considering the status report to be submitted by the Court Receiver.”

32. Subsequently, Contempt Petition (C) No. 905/2017 was filed in the disposed of SLP. The Supreme Court also took note of the pending execution petition, E.P. No. 77/2017, and further clarified that the contentions of the parties are to be addressed before the Executing Court and that the earlier order dated 6.02.2017 would be treated as having been issued by the Executing Court for all intents and purposes. The parties were also granted liberty to approach the



Executing Court seeking variation/ modification or discharge of the receiver.

33. The parties were left free to address all available contentions including the contentions regarding the maintainability of the execution proceedings, locus standi, etc. Paragraph nos. 5 to 11 of order dated 19.09.2017 of the Supreme Court read as under: -

“5. Since the execution is pending before the District Court sakket, New Delhi, we refrain from making any observation with regard to the merits of the contentions raised by the parties. Therefore, all the contentions are left open to the parties to be addressed before the Execution Court.

6. In that view of the matter, we make it clear that we have not expressed any opinion on the merits of the matter.

7. However, having regard to the order dated 06.02.2017, which is extracted above, it shall be treated as an order passed by the Execution Court for all purposes.

8. Therefore, it will be open to any party to approach the Execution Court seeking variation, modification or discharge or receiver, in which case it will be open to the Execution Court to consider the matter and pass appropriate orders in accordance with law.

9. Needless also to say, de hors the issues pending in Execution Court, if any party has any other independent right, which has to be worked out otherwise, nothing said in this Court shall stand in the way of such party taking recourse to such remedy before appropriate forum, in accordance with law.

10. We also make it clear that it will be open to the parties to address all available contentions including the contentions regarding the maintainability of the execution proceedings, locus standi, etc., in which case the contentions will be dealt with by the Execution Court, in accordance with law. Needless also to mention that the submission of the learned counsel for the respondent that the question of law is settled, will also be addressed.

11. Pending application(s), if any, shall stand disposed of.”

34. It would also be appropriate to take note of the I.A. 5/2015, which appears to have been filed during the pendency of the aforesaid



SLP before the Supreme Court stating *inter alia* the following amicable arrangement between the parties: -

“4. That it is agreed between the parties that SLP be disposed of in terms of present Joint Application, taking on record the following facts, viz.

A. That parties agree that Sh. Vineet Tiwari (Applicant No. 1/ Petitioner) is the bona fide purchaser of the entire ground floor of the property, including the garage and rear and front lawns satiated at property No. N-258, G.K.-I, New Delhi vide registered sale deed dated 27.12.1993 and a peaceful and vacant possession of the entire ground floor was handed over to him by Respondent no. 2/ Applicant no. 3.

B. That Applicant No.2, Ms. Marguerite La Susa Chawla (Sole LR of Respondent No.1) has amicably settled the dispute with Mr. Vineet Tiwari and does not wish to continue with the litigation. She withdraws all claims etc. with regard to the property purchased by Mr. Vineet Tiwari and claimed/ disputed by her late husband. She is not interested in taking possession of the area in terms of the impugned judgment/ order dated 26.04.2012 passed by Hon'ble High Court in C.R.P. No. 65 of 2007 titled as Hon'ble High Court in C.R.P. No. 65 of 2007 titled as Harinder Singh Chawla Vs. Vineet Tiwari & Anr. Thus, there remains no cause to continue with the present litigation.

C. That the impugned judgment/ order dated 26.04.2012 passed by the Hon'ble High Court in C.R.P. No. 65 of 2007 titled as Harinder Singh Chawla Vs. Vineet Tiwari & Anr. Be set aside accordingly.

D. That the parties shall have no claims against each other arising out of the litigation for the above said property.”

35. During the pendency of these proceedings, on 10.03.2016, Mr. Vineet Tiwari appears to have executed a registered sale deed in favour of Mr. Akarsh Srivastava. Thus, Mr. Akarsh Srivastava preferred one of the appeals.

36. Mr. Akarsh Srivastava, was impleaded *vide* order dated 18.12.2018 and filed objections as judgment debtor-3 before the Executing Court. The rejection of his objections including the rejection of the objections of Mr. Vineet Tiwari *vide* order dated 07.03.2019 is the impugned order sought to be challenged by these



appeals.

37. The first and foremost issue that requires to be adjudicated by way of this order is whether the impugned order, overruling objections filed by the JD-1 and JD-3, would amount to a decree under Order XXI Rule 103 of the CPC and consequently, an appeal would lie against it.

38. The Order XXI of CPC deals with the execution of decrees and orders. Rules 97 to 106 of Order XXI are encompassed within the heading of '*resistance to delivery of possession to decree-holder or purchaser*'.

39. The Supreme Court had an occasion to consider the scheme of Order XXI Rule 97 to 106 of the CPC in the case of ***Silverline Forum Pvt. Ltd. Vs. Rajiv Trust & Anr.***⁸ and, it has been held that resistance or obstruction raised by a third party to the decree under execution can be gone into under Order XXI Rule 97 of the CPC.

40. Rules 97 to 106 of the CPC are intended to deal with every sort of resistance or obstruction in the execution of a decree or order offered by any person. It is a sound proposition that these Rules are collectively treated as a complete code insofar as the question of resistance or obstruction in the execution of decree of possession is concerned. A third party to the decree who offers resistance would fall within the ambit of Rule 101 of the CPC, and in terms of Rule 98 read with Rule 101, adjudication is warranted on the questions arising as a

⁸ (1998) 3 SCC 723



consequence of the resistance or obstruction made by a third party to the execution of the decree.

41. The Court, however, clarified that if the resistance is made by a transferee *pendente lite* of the judgment debtor, the scope of the adjudication would be shrunk to the limited question of whether he is such a transferee, and on a finding in the affirmative regarding that point, the Executing Court has to hold that he has no right to resist in view of the clear language contained in Rule 102 of the CPC. The prohibition against such a transferee from raising additional contentions is based on the salutary principles adumbrated in Section 52 of the Transfer of Property Act, 1882 (TPA).

42. The doctrine of *lis pendens* essentially means pending litigation and has been derived from the Latin phrase *Ut pendent nihil innovetur* meaning thereby, that during the pendency of suit or litigation, “*nothing new should be introduced and nothing should be changed*”. Thus, the principle embodied significantly ousts any new interests created during the pendency of the suit related to the suit property. Simply put, the doctrine of *lis pendens* puts a legal bar on any transfer of the disputed suit property during the pendency of the *lis* and renders it subservient to the outcome of the suit.

43. As has been observed in the case of ***Kedarnath Lal v. Ganesh Ram & Ors.***⁹ the doctrine imposes a prohibition on the transfer or otherwise dealing with any property during the pendency of a suit,

⁹ (1969) 2 SCC 787



provided the conditions laid down in the section are satisfied. Further, the Supreme Court in the case of ***Thomas (press) Ltd v Nanak Builders***¹⁰ has held that transfer *pendente lite* is neither illegal nor void *ab initio* but remains subservient to the right, eventually determined by the Court in pending litigation. However, the decision of the Court in a suit is binding not only on litigating parties but also on those who derived title *pendente lite*.

44. In the case of ***Silverline Forum Pvt. Ltd.***, an application under Order XXI Rule 101 and Section 151 of the CPC was filed before the Executing Court raising a contention that the decree was passed without making him a party and alleging that the decree was obtained with a collusion between the appellant and the other respondents therein. The Executing Court, however, held that the applicant being a third-party resistor cannot avail himself of the remedy provided under Order XXI Rule 102 of the CPC. The High Court concurred with the said view. The Supreme Court, in para 9 of the said judgment, thus, has held that it is difficult to agree with the High Court that resistance or obstruction made by a third party to a decree under execution cannot be gone into under Order XXI Rule 97 of the CPC.

45. Para 9 to 10 of the judgment passed by the Supreme Court in the case ***Silverline Forum Pvt. Ltd.*** reads as under: -

“9. At the outset, we may observe that it is difficult to agree with the High Court that resistance or obstructions made by a third party to the decree of execution cannot be gone into under Order XXI Rule

¹⁰ (2013) 5 SCC 397



97 of the Code. Rules 97 to 106 in Order XXI of the Code are subsumed under the caption “Resistance to delivery of possession to decree-holder or purchaser”. Those rules are intended to deal with every sort of resistance or obstructions offered by any person. Rule 97 specifically provides that when the holder of a decree for possession of immovable property is resisted or obstructed by “any person” in obtaining possession of the property such decree-holder has to make an application complaining of the resistance or obstruction. Sub-rule (2) makes it incumbent on the court to proceed to adjudicate upon such complaint in accordance with the procedure laid down.

10. It is true that Rule 99 of Order XXI is not available to any person until he is dispossessed of immovable property by the decree-holder. Rule 101 stipulates that all questions “arising between the parties to a proceeding on an application under Rule 97 or Rule 99” shall be determined by the executing court, if such questions are “relevant to the adjudication of the application”. A third party to the decree who offers resistance would thus fall within the ambit of Rule 101 if an adjudication is warranted as a consequence of the resistance or obstruction made by him to the execution of the decree. No doubt if the resistance was made by a transferee pendente lite of the judgment-debtor, the scope of the adjudication would be shrunk to the limited question whether he is such a transferee and on a finding in the affirmative regarding that point the execution court has to hold that he has no right to resist in view of the clear language contained in Rule 102. Exclusion of such a transferee from raising further contentions is based on the salutary principle adumbrated in Section 52 of the Transfer of Property Act.”

46. The Supreme Court in **Silverline Forum (P) Ltd.** has also explicitly laid down that *firstly*, the transferee *pendente lite* would have no right to resist the execution in view of clear language contained in Rule 102 of Order XXI and the exclusion of such a transferee from raising further contention is based on the solitary principle enumerated in Section 52 of TPA and *secondly*, a third party can legally invoke the provisions under Order XXI Rule 97 to raise objections during the execution of a decree. The Executing Court,



however, has been held to be entitled to decide the objection as to whether the Resistor or Obstructor is a person bound by the decree and he refuses to vacate the property. The adjudication need not necessarily involve a detailed inquiry into the collection of evidence. The Court can adjudicate on admitted facts and even on the averments made by the Resistor. It has also been held that the Court can direct the parties to adduce evidence for such determination if the Court deems it necessary.

47. In the case of *Usha Sinha vs. Dina Ram & Anr.*¹¹, the Supreme Court made it further clear that the scheme of Rule 102 of the CPC is based on justice, equity, and good conscience. A transferee from a judgment debtor is presumed to be aware of the proceedings before a Court of law. He should be careful before he purchases the property which is a subject matter of the litigation. It recognized the doctrine of *lis pendens* prescribed under Section 52 of the Transfer of Property Act, 1882. Similarly, in the case of *Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust*¹², an objection was filed under Order XXI Rule 97 to 101 of CPC by *Sriram Housing Finance & Investment (India) Ltd.* who claims to have derived title from one Yogesh Mishra, after the decree was passed in favour of the said Yogesh Mishra. The Supreme Court held that the company therein *Sriram Housing Finance & Investment*

¹¹ (2008) 7 SCC 144

¹² (2022) 15 SCC 176



(India) Ltd. was claiming itself to be a *bonafide* purchaser and, therefore, was not found entitled to raise an objection as he was not the decree holder neither was a third party. Paragraph No.24 of the said decision reads as under: -

“24. On conjoint reading of the aforesaid provisions, it can be observed that under Rule 97, it is only the “decree-holder” who is entitled to make an application in case where he is offered resistance or obstruction by “any person”. In the present case, as admitted by the appellant itself, it is a bona fide purchaser of the property and not the “decree-holder”. As available from the material placed on record, it is the respondent Trust along with legal heirs of late N.D. Mishra who are the decree-holders and not the appellant. Therefore, it is obvious that the appellant cannot take shelter of Rule 97 as stated above to raise objections against execution of decree passed in favour of the respondent. Further, Rule 99 pertains to making a complaint to the Court against “dispossession” of the immovable property by the person in “possession” of the property by the holder of a decree or purchaser thereof.”

48. In the case of ***Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal***¹³, the Supreme Court negated the contention that the remedy of the third party to the Executing Court is only after he suffers dispossession in the execution of a decree and it has been held that 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, is available. It has held so, keeping in mind the scheme of Order XXI Rule 97 to 103,

¹³ (1997) 3 SCC 694



purported to be a complete code for the parties concerned to have their grievance finally resolved in execution proceedings, once and for all.

49. Similarly, in the case of *Tanzeem-E-Sufia v. Bibi Haliman*¹⁴, an objection under Order XXI Rule 97 was considered at the instance of a third party. The aforesaid position has also been discussed by the Supreme Court in the case of *Ashan Devi and Another v. Phulswasi Devi*.¹⁵ In paragraph 21 of the said decision, it has been held that the provisions of Order XXI Rule 97 and 99 have been widely and liberally construed to enable the Executing Court to adjudicate the *inter se* claims of the decree holder and the third party in the execution proceedings themselves to avoid prolongation of litigation by driving parties to file independent suit.

50. The position, however, with respect to the Objectors/Obstructionists who themselves are the judgment debtors or a person having derived the right from the judgment debtor *pendente lite* is concerned, the same has been explicitly considered by the Supreme Court in the case of *Noorduddin v. K.L. Anand (Dr)*,¹⁶ and it has been held that the Executing Court is enjoined to adjudicate the claim of objection or resistance only of such person who is independent of the judgment debtor or a person having derived right from the judgment debtor.

¹⁴ (2002) 7 SCC 50

¹⁵ (2003) 12 SCC 219

¹⁶ (1995) 1 SCC 242



51. The aforesaid legal position has further been reiterated in the case of ***P. Janardhana Rao v. Kannan***¹⁷. The High Court of Karnataka also in the case of ***Jesaraj Ghasimal Betal vs. Ahammad Hussein***¹⁸ has considered the aforesaid aspect with greater clarity to hold that the only person who can file an application under Order XXI Rule 97 of the CPC are (i) the holder of decree for possession and (ii) the purchaser of any such property sold in execution of a decree. The property in that case was claimed to have been purchased by the Objector by private arrangement.

52. The Court recently had the occasion to consider the rights of parties involved in the executing proceedings in the case of ***Naresh Kumar Jain vs. R.L. Kapoor and Ors***¹⁹, decided on 28.01.2025, wherein, the Court elucidated the legal nuances involved in execution proceedings under Order XXI of the CPC. It was emphasized that orders issued under Rule 98 or Rule 100 are tantamount to decrees, thereby, possessing the same enforceability and eligibility for appeals. However, the Court highlighted that objections by a transferee *pendente lite* are expressly excluded from the purview of Order XXI Rule 102. Consequently, Rule 103 which equates adjudications to decrees does not apply to these objections, and Sections 96 and 100 of CPC are *per se* inapplicable. The Court further elaborated on the repercussions of permitting appeals by transferees *pendente lite*,

¹⁷ (2004) 11 SCC 511

¹⁸ 1986 SCC OnLine Kar 212

¹⁹ 2025 SCC OnLine Del 448



asserting that such an allowance would generate new grounds for appeal during the execution stage, consequently undermining the finality of adjudications and the principle of constructive res judicata. For an adjudication to fall under the purview of Sections 96 or 100, there must be clear legislative intent conferring the right to appeal. However, the provisions within Order XXI Rules 97 to 106, do not grant such rights to a transferee *pendente lite*. Moreover, the doctrine of *lis pendens* is rooted in principles of justice, equity and good conscience, aiming to prevent alienation during litigation to uphold the rights of the parties involved and the integrity of the judicial process. It has been observed that the certainty and sanctity of the adjudicatory process must be preserved.

53. Similarly, the position with respect to the transferee *pendente lite* has been comprehensively dealt with by the Supreme Court in its recent decision of ***H. Anjanappa and Ors. v. A. Prabhakar and Ors.***²⁰ and in addition to reiterating the established principle that an appeal under Section 96 of the CPC is maintainable only by a person aggrieved by and dissatisfied with the judgment and decree, the Court also examined the situation of a transferee *pendente lite* while specifically, looking into the rights of such transferees when they seek to be impleaded in a suit to which they were not originally a party. The Court emphasized that the term "person aggrieved" does not cover individuals who suffer from psychological or imaginary injuries.

²⁰ 2025 SCC OnLine SC 183



Instead, a "person aggrieved" must be someone whose right or interest has been adversely affected or jeopardized.

54. The Supreme Court in the said case laid down certain fundamentals with respect to impleadment of the transferee *pendente lite*, which can be summarized in principle to state that *Sections 96 and 100 of the CPC provide for appeals from original and appellate decrees, respectively. While these sections do not specify who can file an appeal, it is established that only an aggrieved person may do so. A stranger to the proceedings must demonstrate that he falls within the category of an aggrieved person to file an appeal. An aggrieved person is someone whose rights are directly affected by the judgment and decree. Leave to appeal should not be granted to those indirectly or remotely affected. Instead, it should be allowed for non-parties bound by the judgment and precluded from challenging it in other proceedings.*

55. On a careful analysis of the common thread running through the aforesaid decisions, the following fundamentals could be laid down:

- (i) The decree holder or the purchaser of any property sold in the execution of a decree has an unfettered right to seek redressal under Rule 97 of Order XXI of CPC by filing a complaint against any objection or resistance in taking possession; (***Silverline Forum Pvt. Ltd.***)



- (ii) A claim of objection or obstruction at the instance of a third party is entertainable under Order XXI Rule 97 of the CPC in execution proceedings. However, such third party could not be the judgment debtor or any person claiming through the judgment debtor *pendente lite* in light of the express bar (***Silverline Forum Pvt. Ltd.***);
- (iii) A person claiming through decree holder is not legally entitled to raise an objection under Order XXI Rule 97 to 101 of CPC (***Sriram Housing Finance***);
- (iv) An applicant raising an objection under Rule 97 of Order XXI must be independent of the judgment debtor or a person having derived rights from the judgment debtor (***Noorduddin and Ashan Devi***);
- (v) A transferee *pendete lite*, whether a party or otherwise, is bound by the result of litigation and the provisions of Section 52 TPA strike at the transactions which confer him with any right over the suit property by rendering such *pendente lite* transfers as subservient to the outcome of the suit (***H. Anjanappa and Ors.***).

56. In the context of the facts at hand, a suit under Section 6 of the SRA came to be decreed by this Court in favour of Mr. Harinder pal Singh Chawla. As can be seen from the object of the provision under Section 6 of SRA, it *inter alia* accords legitimacy and legality only to possession taken in due course of law. It affirms an important



principle of substantive law to protect possession and decision over disputed rights of the parties by due course of law and not otherwise.

57. The procedure under Section 6 is a summary procedure as the object of law is to discourage people from adopting any foul means to dispossess a person. The object of Section 6 is also to discourage people from taking the law into their own hands however good their title may be. Thus, a decree passed in a suit under Section 6 shifts the onus of proving the title upon the defeated party, when it subsequently brings an action for possession on the basis of title. The plaintiff claiming relief under Section 6 of SRA may not be required to prove his title, and thus, a decree under Section 6 does not operate as *res judicata* on question of title. It is also to be kept in mind that under Section 6 of the SRA, if a decree is passed, no appeal would lie as the object of Section 6 seems to afford an immediate remedy to the aggrieved party to re-claim the possession which was unjustly denied to him by an illegal act of dispossession.

58. If the contention of the objectors in the instant case is examined on the anvil of the aforesaid legal position with respect to Section 6 of the SRA, the same would indicate that their objections essentially relate to their claim of title over the suit property. When the suit itself is a summary proceeding and the adjudication is confined to remedy the illegal dispossession of the property, the execution of such a decree would not entail the determination of the title of defendants by any stretch of imagination. As far as Rule 101 of the CPC, which is



sought to be placed reliance on to contend that all issues *qua* title etc. are to be decided under the said provision, is concerned, the same does not find favour in view of the scheme of Section 6 of the SRA itself.

59. The aforesaid view is further strengthened by various proceedings which have taken place between the parties including the final judgment dated 26.04.2012. The said judgment, in paragraph No.13, clearly states that there shall be a decree of possession in respect of suit property, however, defendant No.1 therein, who was claiming to be the owner of the suit property, was held entitled to institute independent legal proceedings based on his own title. The Supreme Court, in its last order dated 19.07.2017 in paragraph No.9, has also made it clear that if any party has any other independent right, they shall be entitled to take recourse to such remedy before an appropriate forum in accordance with law. The other issues have been left open to be considered by the Executing Court, however, none of the orders of the Supreme Court mandates that the rights of parties with respect to the title are to be necessarily decided in Execution proceedings. The alleged compromise which was brought on record by I.A.05/2015 has also not been deliberated upon by the Supreme Court, rather the parties were directed to take recourse in accordance with law. Moreover, the interpretation sought to be placed upon Rule 101 does not find adequate support from the text of the provision, which mandates that all questions of right, title or interest, “*arising between the parties to a proceeding on an application under rule 97 or rule 99*” and “*relevant to the adjudication of the application*” are to be



decided by the Executing Court. A judgment debtor or *pendente lite* transferee through the judgment debtor does not fall either in Rule 97 or Rule 99, by virtue of Rule 102, and thus, any claim towards title on their behalf ought not to be entertained by the Executing Court while exercising the jurisdiction under Rule 101, especially when the decree is one under Section 6 of SRA.

60. Pertinently, Section 6 of SRA is an immediate measure which is intended to deal with circumstances of exigency emanating from illegal dispossession. In law, an act of illegal dispossession finds special attention and the legislature has contemplated both civil and criminal remedies to deal with the same. The essence of these remedies lies in promptness of action and in the instant case, it is of great dismay to note that the judgment and decree dated 26.04.2012 has still not been implemented. It could be observed without hesitation that this aspect further nullifies the very object of Section 6 of the SRA. If any of the parties have any claim over the title, legitimate or otherwise, the remedy would lie elsewhere but in no case, the judgment debtor or someone claiming through the judgment debtor could halt the execution proceedings on the anvil of Order XXI Rule 97 of the CPC. Such a dispensation, if permitted, would completely frustrate the very object of Section 6 of the SRA as well as of Order XXI Rule 97 of CPC.

61. It will also be borne in mind that except to the limited extent of conferring a right in favour of certain persons to raise objections



during execution, the provisions of Order XXI Rules 97 to 106 are procedural in nature, whereas, Section 6 of SRA deals with the substantive rights of the parties, and therefore, the substantive provision ought to override the procedural ones, which are only meant to serve as the handmaid of the adjudicatory process of substantive rights and are intended to take the substantive adjudication to its logical conclusion. The adjudication precedent to execution constitutes a potent legal remedy designed to forestall fraud, suppression, and abuse of judicial process, as well as to preclude miscarriages of justice. The fundamental objective of the law is the dispensation of justice. While the right to title or interest in immovable property is a substantive right, the procedure available to resolve disputes regarding the same falls in the realm of procedural rights, and no one has a vested right in it. If the law earmarks a specific procedure for availing a certain legal remedy, it alone should be followed for availing the remedy.

62. The commitment of a legal system to the procedure of the land is essential for the maintenance of the rule of law and uniformity, but if the same procedure is allowed to be taken liberties with, it would amount to a suppression of the rule of law and would erode public trust. The maintenance of public trust in the legal system is crucial for upholding the rule of law and the legal framework in place must always be seen as adequate and vigilant to deal with unique exigencies emerging from time to time. Any weakness in the judicial process can



undermine the common man's sense of justice and create disillusionment with the legal system. The procedural rules are designed to facilitate substantive justice, which is vital for orderly human relations. The judicial process must never be used as a tool for oppression or to undermine justice and the duty of vigilance in this regard falls upon the courts. It is also noteworthy that a substantive right typically takes priority over a procedural right, meaning that even if a procedural error occurs, a person's fundamental legal right should not be denied, as long as the substantive right is recognized. In essence, the core legal entitlement is more important (*Noorduddin v. Dr. K.L. Anand*²¹)

63. Evidently, in light of the extensive determination of the legal aspects as well as the facts at hand, it is distinguishable that the substantive right herein vests in the executor of the decree of possession, as has been held by the Court, which unfortunately has not been taken to its legal end till date. Furthermore, taking into consideration the intricate discussion undertaken by the Supreme Court in the case of *H. Anjanappa and Ors. v. A. Prabhakar and Ors.*²², and substantive right of execution vested in the decree holder, it would be significant to hold that the substantive right of the decree holder seeking to execute a decree in his name would triumph over the

²¹ (1995) 1 SCC 242

²² 2025 SCC OnLine SC 183



right of any other person, irrespective of whether the said person is a party to the execution or otherwise.

64. If such a liberal right of continuous litigation over a specific relief suit is granted to the appellants herein, it would defeat the very purpose of summary procedure which is intended to obtain expedient justice, as laid down in the Specific Relief Act, 1963. Juxtaposing the scheme and rationale of Section 6 of SRA with that of Order XXI Rules 97 to 106 of CPC would manifest that the sole aspiration of the provisions is to bring an end to incessant litigation preferred at the instance of unentitled parties. If read in conjunction, the said legal position of both the laws is complementary, and therefore, in the considered opinion of the Court, a harmonious construction of such laws is necessitated. Whereas, Section 6 of SRA provides for the remedy of restoration of possession, irrespective of the question of title, in order to maintain the sanctity of peaceful possession, Order XXI Rules 97 to 103 ensure that a decree of the Court is executed strictly in accordance with the substantive rights adjudicated in the decree, by narrowing down the scope of obstruction or resistance by making it locus-specific and precise. If, upon the grant of a decree of possession under Section 6 of SRA, the scope of execution proceedings is widened by any loose interpretation of the requirements of locus or otherwise, it would effectively amount to creating special avenues for obstructing a decree of the Court. Put otherwise, it would enable the judgment debtor or any other person claiming through him



to achieve indirectly what could not have been achieved directly before the decree Court. In *Jini Dhanrajgir*, the Supreme Court observed that the Courts ought to be careful in ensuring that the process of the Court and the laws of procedure are not abused by judgment debtors in such a way as to make the courts of law instrumental in defrauding those who have obtained decrees in their favour by following the due process of law.

65. Mr. Aakash Srivastava in the instant case, is apparently a transferee *pendente lite* who admitted to have purchased the suit property *vide* registered sale deed dated 10.03.1996 from Mr. Vineet Tiwari. In any case, the objection under Order XXI Rule 97 at his instance would not be maintainable as the same does not fall within the ambit and scope of the said provision and, therefore, any adjudication of his purported objection would not constitute a decree. Thus, the adjudication of his objection/ resistance would not fall within Order XXI Rule 103 of the CPC and is hit by Rule 102 of Order XXI of the CPC being a transferee *pendent lite* and, therefore, his objections under Order XXI Rule 97 were *per se* not maintainable. Thus, the adjudication of his objections would not fall within the purview of the decree as envisaged under Rule 103 of Order XXI of the CPC. He, however, shall be at liberty to take appropriate recourse in accordance with law.

66. So far as the objection of Mr. Vineet Tiwari is concerned, as has been culled out from the enunciation of law laid down by the Supreme



Court in various cases, being a judgment debtor, it was not permissible for him to raise any objection or create any resistance in the execution of the decree as Order XXI Rule 97 categorically excludes a judgment debtor from doing so. It is for the aforesaid reason that even his objection under Order XXI Rule 97 is completely unsustainable in law and the same is not maintainable. Hence, even his prayer also deserves to meet the same fate. Ms. Kiran Abnashi Chawla, who is one of the beneficiaries of the Will executed by late Mr. Harinder Pal Singh Chawla, has a right to seek the execution of the decree granted under Section 6 of the SRA. Even her application for substitution as a legal heir was allowed by the Supreme Court. So far, the right to get the decree executed shall have to be circumscribed by the final determination if it takes place at the instance of the appellants in appropriate proceedings. In absence thereof, no resistance could be entertained from the appellants.

67. With respect to the submission of the respondent to the effect that if the Court finds the appeal not maintainable, it can always direct for conversion of the instant proceedings to a petition under Article 227 of the Constitution of India, the Court is of the considered opinion that the submission deserves to be rejected. The Court has held that at the instance of the present appellants, the objections under Order XXI Rule 97 are *per se* not maintainable and therefore, there arises no question of directing the conversion of these appeals as petitions under Article 227 at this point in time. The power of superintendence of this Court is not meant to subjugate the statutory scheme by spreading its



jurisdictional wings, especially when the statute is expressed in unequivocal and clear terms, and the consequence of giving effect to the language of the statute is completely just and proper.

68. In view of the elaborate discussion undertaken in the forgoing paragraphs, the appeals of Mr. Aakarsh Shrivastava and Mr. Vineet Tiwari are held to be non-maintainable. The same are dismissed along with the pending application(s). No order as to costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

FEBRUARY 12, 2025/aks/dp