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

\# **CNR No. DLHC010509012026**

\+ EX.F.A. 77/2026, CM APPL. 73285/2026 (Stay), CM APPL. 73286/2026 (Ex.) & CM APPL. 73287/2026 (Delay of 35 days in filing the appeal)

HARBHAJAN KAUR .....Appellant

Through: Mr. K.C Mittal, Sr. Adv. along with Mr. Yugansh Mittal, Ms. Ayesha and Mr.Md Adnan, Advs.

versus

NIRANJAN SINGH (SR. CITIZEN) DECEASED THROUGH LRS AND ORS .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% 28.10.2026

1. The present Appeal has been filed by the Appellant under Order XXI Rule 58(4) of the Code of Civil Procedure, 1908 ["**CPC**"], assailing the Order dated 09.06.2026 ["**Impugned Order**"] passed by the learned Executing Court in Ex. DJ. No. 1249/2025, titled as *"Niranjan Singh (Sr. Citizen) deceased through LRs vs. Harbhajan Kaur & Ors."*.

2. The challenge is primarily directed against the findings recorded in Paragraph 6 of the Impugned Order, the relevant portion whereof reads as follows:

> "In view of aforesaid facts and observations, this court treats that the suit property is no more a govt. land and based on its long standing implied adverse possession with the predecessor in interest of the

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parties, it transformed into a possessory title or an adverse title…"

3. Learned Senior Counsel for the Petitioner has also handed over an Order dated 27.10.2026 at the Bar, which reads as following:

> "**File taken up today on the objections filed on behalf of the MCD under Order XXI Rules 58 and 59 read with Section 151 CPC against the attachment and proposed auction scheduled for 28.10.2026.**
> **Present:** Ms. Tajinder Virdi, Ld. Standing Counsel for MCD through V.C.
> Today, Ld. Standing Counsel for the MCD has filed objections under Order XXI Rules 58 and 59 read with Section 151 CPC against the attachment and proposed auction of Municipal Damage Site No. 13 (Property No. T-312), described as Property No. 312, built on Plot No. 13, measuring 85 sq. yards (71.06 sq. metres), situated at Basti Punjabian, Subzi Mandi, Delhi-110007.
> Ld. Standing Counsel for the MCD submits that the suit property belongs to the MCD and that neither the DH nor the JD has any right to transfer the same, as both the DH and the JD are merely licensees in respect of the property. Ld. Standing Counsel further submits that the auction proceedings are scheduled for tomorrow and that the next date of hearing is 03.11.2026. Accordingly, she prays that the auction proceedings be stayed till the next date of hearing.
> Ld. Standing Counsel for the MCD further submits that advance notice of the objections has already been served upon the parties as well as the auctioneer.
> In view of the submissions made, the auction proceedings scheduled for 28.10.2026 are stayed till the next date of hearing.
> Put up for arguments on the objections on 03.11.2026.
> Copy of this order be given dasti, as prayed for."

4. In order to appreciate the controversy, reference may also be made to Paragraph 20 of the Impugned Order dated 13.08.2024, which reads as follows:

> "20. In the instant case, it is claimed by the Ld. Counsel for the defendants that MCD/Central Government/Custodian Department of Government is/are the owner of the suit property and Sh. Kishan Singh can be said to be an unauthorized occupant only, therefore, such right cannot be divided amongst his legal heirs. In the opinion of this court, unless the MCD/Central Government or Custodian Department objects transfer or division of such property, no one else has any right to object the same. Moreover, if said logic applies, then none of the legal heirs of Kishan Singh will have any right, who are enjoying the same right being derived from Sh. Kishan Singh only."

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5. A perusal of the aforesaid findings indicates that the issue concerning the nature of the rights claimed in the suit property was considered, *inter alia*, in the context of the absence of any objection by the MCD or the concerned governmental authority to the transfer or division of the rights claimed through the predecessor-in-interest, Sh. Kishan Singh. The grievance raised in the present Appeal is required to be examined in light of the said observations and the subsequent objections now preferred by the MCD asserting ownership over the suit property.

6. In view of the objections filed by the MCD under Order XXI Rules 58 and 59 read with Section 151 CPC, wherein a categorical claim of ownership over the suit property has been raised, it would be appropriate for the learned Executing Court to consider the said objections, including their effect on the execution proceedings, in accordance with law. The implications, if any, of the said objections for the findings recorded in the Impugned Order shall also be considered by the learned Executing Court while adjudicating the objections on their own merits.

7. In the aforesaid circumstances, this Court is of the view that no further Order is warranted in the present Appeal at this stage.

8. Accordingly, the present Appeal, along with pending Application(s), if any, stands disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 28, 2026/jk/ma

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