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

***Date of decision: 28.10.2026***

\# **CNR No. DLHC010515752026**

\+ RC.REV. 411/2026, CM APPL. 74038/2026 (Ex.) & CM APPL. 74039/2026 (Delay of 265 days in Re-filing the petition)

SH. BHAGWAT SINGH (SINCE DECEASED) THROUGH LRS .....Petitioner

Through: Mr. P.K. Bhardwaj, Advocate.

versus

SH. KISHORI LAL (SINCE DECEASED) THROUGH LRS .....Respondent

Through:

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

**%** **JUDGEMENT (Oral)**

1. The present Petition, has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**[1], assailing the **Order dated 06.10.2025**[2] passed by the learned **Additional Rent Control -01, Central District, Tis Hazari Courts, Delhi**[3] in the Objection Petition, being M-598171/2016 (Old No. M-43/2009) in **Execution bearing No. 597928/2016 (Old No. 78/2009)**[4], titled as "*Bhagwant Singh vs. Kishori Lal"*, whereby the objections filed by the Objector ["**Petitioner herein**"] were dismissed by the learned ARC.

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[1] DRC Act
[2] Impugned Order
[3] Learned ARC
[4] Execution

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***SUBMISSIONS ON BEHALF OF THE PETITIONER:***

2. Learned counsel appearing on behalf of the Petitioner confines the challenge to the Impugned Order to two principal grounds, both of which, according to him, go to the root of the maintainability of the execution proceedings and the enforceability of the eviction order against the Petitioner.

3. Firstly, learned counsel contends that the execution proceedings and the objection proceedings have been prosecuted by the son of the original landlord who, subsequent to the passing of the eviction order, had relinquished his right, title and interest in the subject property in favour of his mother (wife of the original landlord), by way of a Relinquishment Deed dated 21.06.2016. It is submitted that the said beneficiary of the Relinquishment Deed was neither a party to the original eviction proceedings nor had she participated in the adjudication culminating in the eviction order dated 17.02.2009. According to learned counsel, once the person who had prosecuted the original eviction proceedings had divested himself of his interest in the property, he could not have continued to prosecute the objection proceedings, and the entire process stands vitiated.

4. Secondly, learned counsel submits that the Petitioner herein was the person in actual and exclusive occupation of the subject premises, whereas the other legal heirs of Late Sh. Deva Singh, including the person through whom the eviction proceedings were pursued, were not residing therein. It is contended that the original tenant against whom the eviction proceedings were instituted was the Petitioner's brother, who, despite being one of the legal heirs of Late Sh. Deva Singh, was residing in Uttar Pradesh and had no actual occupation of

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the premises. Learned counsel further submits that Smt. Sheela Saini, being neither in occupation nor in actual possession of the subject premises, could not have been treated as the proper representative of the tenancy to the exclusion of the Petitioner. On this premise, it is urged that the Petitioner, being the person actually occupying the premises, had an independent right to resist the execution of the eviction order and that the learned ARC erred in holding otherwise.

5. No other submissions have been advanced by the learned counsel appearing on behalf of the Petitioner.

***ANALYSIS:***

6. This Court has heard the learned counsel appearing on behalf of the Petitioner and, with his able assistance, perused the material available on record, including the Impugned Judgment.

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

8. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***[5], ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***[6], and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***[7], has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25-B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of

[5] (1998) 8 SCC 119
[6] (2014) 9 SCC 78
[7] (2022) 6 SCC 30

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appellate jurisdiction.

9. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in ***Pankaj Pahwa v. Prem Wati & Ors.***[8], and ***Sanjeev Hiranandani v. Sunny Grover***[9].

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

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

[8] 2024:DHC:9322
[9] 2025:DHC:11285

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11. In ***Pankaj Pahwa*** *(supra)*, a Coordinate Bench of this Court, upon considering the principles enunciated in ***Abid-Ul-Islam*** *(supra)*, reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25-B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

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

13. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged by the learned counsel on behalf of the Petitioner against the Impugned Judgment are required to be examined.

14. Before adverting to the facts of the present case, for the sake of

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completeness and clarity, this Court deems it apposite to reproduce the findings returned by the learned ARC, which reads as under:

> "17. Lastly, the main contention which has been pressed on behalf of the objector is that he is not bound by the eviction order dated 17.02.2009 obtained by the decree holder against Sheela Saini since he is claiming independent right in the premises as a tenant which is neither through Sheela Saini or her late husband Babu Lal (brother of the objector). In this regard, evidence of OW1 Brijbala, OW2 Arun Saini and OW3 Tarun Saini has been relied upon whereby they have deposed that after the demise of Deva Singh in 1972, the tenancy was inherited by Bhagwant Singh to the exclusion of other children of Deva Singh. Further, reliance has been placed upon the various documents i.e. death certificate, voter ID card, electricity bills, school leaving certificate, ration card etc. to show that Bhagwant Singh was in possession of the premises after the demise of Deva Singh. However, even if, the possession of Bhagwant Singh, is conceded on the basis of said documents, the relevant question to be determined is whether the said possession was to the exclusion of his siblings, and therefore, whether Bhagwant Singh was the sole tenant after the demise of Deva Singh. It is not in dispute that Babu Lal (husband of Sheela Saini) was the elder brother of Bhagwant Singh and therefore, being son of erstwhile tenant also entitled to succeed as joint tenant in the premises in question. OW1 in her cross examination has categorically admitted that she was not present in the year 1972 in the tenanted premises since her marriage with objector Bhagwant Singh had been solemnized at a later stage. Similarly, OW2 and OW3 have also admitted that being sons of Bhagwant Singh, they too were not present in 1972 and do not have personal knowledge qua the succession of tenancy of Deva Singh. All the three witnesses have admitted that they have deposed in this regard on the basis of what was told to them by Bhagwant Singh in his lifetime. Hence, it is essential to determine if reliance can be placed upon the testimony of the said witnesses in this regard.
> 18. It is pertinent to note that OW1 has relied upon a letter dated 30.08.1972 i.e. Ex. OW1/12 to contend that Bhagwant Singh was residing in the tenanted premises during the lifetime of Deva Singh. However, perusal of said letter shows that the same was also addressed simultaneously to his siblings Anand Prakash, Om Prakash as well as Babu Lal (husband of Sheela Singh). Therefore, the testimony of the witnesses OW1, OW2 and OW3 and document Ex. OW1/12 relied by them itself shows that the other siblings of the deceased Deva Singh were also residing in the tenanted premises in dispute at the time of his death. Admittedly, there is no written letter or document to show that the other siblings had surrendered the tenancy in favour of Bhagwant Singh.

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19. Furthermore, it is also pertinent to note that OW1 in her cross examination dated 15.12.2022 has admitted that before October, 1974, Late Kishori Lal was issuing rent receipt in the name of Babu Lal Saini (husband of Sheela Saini). Therefore, from the said fact, it is apparent that Babu Lal Saini had not surrendered his joint tenancy in favour of Bhagwant Singh. Though, it is contended that Bhagwant Singh had raised objections in this regard and thereafter, rent receipt was issued in the name of Late Deva Singh, which is Ex. OW1/1, but the said fact only shows that there was dispute amongst the successors of Deva Singh. As no single successor was attorned as exclusive tenant, therefore, the rent receipt was issued in the name of erstwhile original tenant who had demised. This fact in no way supports the claim of the objector that he was the exclusive tenant in possession on demise of Deva Singh. It is also pertinent to note that OW1 has admitted in her cross examination that the rent receipt was not issued in her presence and she has deposed in this regard on the basis of what was informed to her by her late husband Bhagwant Singh.

20. It is also relevant to note that the objector has relied upon money-order receipts Ex. OW1/2 to Ex. OW1/7 to contend that rent was being tendered by Bhagwant Singh as exclusive tenant, but the same was refused by the landlord. However, admittedly, no deposit of rent petition was filed by Bhagwant Singh as per Section 26/27 DRC Act. Here, I find it pertinent to refer the judgment of the Hon'ble Apex Court in case of E. Palanisamy v. Palanisamy (D) By LRs & Ors., AIR 2003 SC 153, wherein it was held that equitable consideration have no place in rent legislation and statute contains express provisions. In the absence of filing of DR petitions, pursuant to the purported refusal by the landlord, the said money orders cannot be considered valid tender of rent and therefore, are of no assistance to the claim of the objector.

21. With respect to the credibility of OW1 as a witness, I also find it relevant to note that despite being specifically confronted during cross examination about the ownership of property at Khasra No. 553, Gyanodya Public School, Village Alipur, Delhi-110036, she denied the same. She was specifically shown the online DORIS record as per which, property is jointly owned by her and her brother Ajit Kumar. It is pertinent to note that OW3, son of OW1 has admitted that the 'Barat' for his marriage had assembled at the aforesaid address and that her mother is the owner of the said property. The said fact impeaches the credibility of OW1 as a witness, and therefore, it is difficult to place reliance upon her testimony.

22. It is also pertinent to mention that the witnesses have placed reliance upon Ex. OW1/8 to contend that Sheela Saini has admitted that the address of the objector Bhagwant Singh was the tenanted premises and that she was residing at a different address. However,

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it is pertinent to note that OW2 in his cross examination dated 01.06.2023 categorically admitted that despite issuance of Ex. OW1/8, relation between Sheela Saini and his parents i.e. OW1 Brijbala and objector Bhagwant Singh remained cordial and never deteriorated. Perusal of the contents of Ex. OW1/8 shows that OW1 had raised allegations of forcible entry in her locked room and theft/destruction of her articles by Bhagwant Singh. The said letter is dated 14.05.1999, however, OW2 categorically stated in his cross examination that in the year 1999 there was no dispute between Late Smt. Sheela Saini and his parents and further that she used to regularly visit his parents and their family. It is hard to fathom that despite serious allegations of commission of an offence, the relations between the parties would remain normal. Furthermore, the admission of OW2 that Sheela Saini never filed any complaint against his parents and that his parents too never filed any complaint against Sheela Saini, brings into question the authenticity and genuineness of letter Ex. OW1/8. Therefore, reliance cannot be placed upon the same.

23. It is also relevant to note that the objectors have admitted that Babu Lal demised in Delhi. Furthermore, perusal of death certificate of Babu Lal shows that the address and place of death of Babu Lal in the death certificate is recorded as 3373, Kucha Sayeed Jalal Bukhari, Delhi Gate, Delhi, which is the same as the tenanted premises in question. Therefore, the contention of the objector that Babu Lal had surrendered the tenancy due to obtaining job in UP is contradicted by the record. Even if, it is assumed that Babu Lal due to his job was working at UP or other places, prima facie he continued to maintain his domicile at the tenanted premises itself. Hence, it cannot be assumed that the objector succeeded the tenancy on the demise of Deva Singh to the exclusion of other legal heirs. In this regard it is also relevant to note that OW1 has conceded in her cross examination that marriage of Babu Lal with Sheela Saini was solemnized at the tenanted premises itself. Therefore, Sheela Saini's matrimonial home on marriage was the tenanted premises in question. Except Ex. OW1/8, there is no document on record to show that Sheela Saini was not residing at the tenanted premises. As discussed above, reliance cannot be placed upon Ex. OW1/8. Furthermore, the envelope vide which the purported letter was sent was also not placed upon record despite specific question in this regard being put to OW3 and he seeking time to produce the same on 23.09.2023.

24. The crux of the objections, on which the execution of the eviction order is being opposed is that on the demise of Deva Singh, objector Bhagwant Singh succeeded the tenancy to the exclusion of other legal heirs. It is trite to state that whoever desires any court to give judgment as to any legal right, dependent upon

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the existence of facts which he asserts, he must prove that those facts exist. Thus, the burden of proving fact always lies upon the person who assert it and unless such burden is discharged, the other party is not required to be called upon to prove his case. Reliance in this regard is placed upon ***Rangammal Vs. Kuppuswami, AIR 2011 SCC 2344***. A bald self-serving ipso dixit averment has been made by the objector that Babu Lal had surrendered the tenancy and the objector was the exclusive tenant in possession of the premises. But the said bald assertion is not sufficient to resist the execution of eviction order.

25. Hence, the burden to prove the same was on the objector and he cannot rely upon the fact that there are weaknesses in the reply of the decree holder. The objections of the Bhagwant Singh cannot stand on their own legs and therefore, he cannot contend that the decree holder must prove to the contrary. It is also well settled that on the death of the original tenant, subject to any provision to the contrary either negating or limiting the succession, the tenancy rights devolve on the heirs of the deceased tenant. The incidence of the tenancy are the same as those enjoyed by the original tenant. It is a single tenancy which devolves on the heirs. There is no division of the premises or of the rent payable thereof. That is the position as between the landlord and the heirs of the deceased tenant. In other words, the heirs succeed to the tenancy as joint tenants. Reliance in this regard is placed upon **H.C. Pandey vs. G.C. Paul (1989) 3 SCC 77** and **Suresh kumar kohli vs Rakesh Jain & Anr Civil Appeal no 3996/2018**. It is also pertinent to note that the tenancy cannot be split and bifurcated and therefore, the unity and integrity of the tenancy cannot be destroyed either by the landlord or the tenant. Reliance in this regard is placed upon the case of **S. S. Rikhy Vs. Hermes Travels and Cargo Pvt. Ltd, 2001 SCC Online Del 422.**

26. **Therefore, merely because the objector was also in possession does not imply that the other siblings were not the joint tenants in the premises in question.** Hence, Sheela Saini being successor in interest of Deva Singh was a joint tenant in the premises. It is trite to state that any one joint tenant can represent the interest of all joint tenants and there is no splitting of tenancy in this regard. Hence, the objector cannot claim to have an independent right to continue in possession of the property. **Section 25 of the Delhi Rent Control Act provides that an eviction order shall be binding on all persons who are in occupation of the premises and vacant possession shall be given to the landlord by evicting all such persons.** *It is however provided that this section shall not apply to persons who have an independent title over the premises.* In the case of **Rattan Devi Vs. Bal Kishan SAO No. 164 of 1977**, the Hon'ble High Court of Delhi held that mere possession of a premises cannot save the

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person in possession from eviction in view of section 25 of the Delhi Rent Control Act. The proviso to Section 25 of the Delhi Rent Control Act only empowers the person who has an independent title to the tenanted premises, to file objections and resist execution of the eviction order passed under the Delhi Rent Control Act. It is apparent that the predecessor-in-interest of the objector was a tenant under the landlord/Kishori Lal. Therefore, the objector was also a joint tenant in the premises alongwith his siblings on the demise of his father.

27. In the case of **Bhikobai Kanhaiyala & Ors. Vs. Dhannalal Chintaman & Ors. Misc. Appeal No. 147/1971** decided by the Hon'ble High Court of Madhya Pradesh on 18.02.1975, it was held that a mere claim to an independent title is not sufficient to get the benefit of the proviso. It was held that when a person claims an independent title, it must be found on an inquiry that he possesses the title as claimed by him. It was held that unless it is so found, benefit of the proviso is not available. *It was observed that use of the word 'has' in the proviso must necessarily lead to this conclusion. The Hon'ble High Court noted that if the intention of the legislature was to provide benefit of the proviso even to a person who makes such a claim even though he is unable to prove the same to the satisfaction of the Court, then instead of using the word "has", the word used would have been "claims". The use of the word "has" in the context must mean that the claim to an independent title has been substantiated in an enquiry.* But the claim of the objector that he is not bound by eviction order dated 17.02.2009 since he has independent title in the premises has remained unsubstantiated. *Hence, his objections for resisting the execution of the eviction order are devoid of merits.*"

15. The first objection raised on behalf of the Petitioner pertains to the effect of the Relinquishment Deed dated 21.06.2016 upon the continuation of the execution and objection proceedings. The submission is that the son of the original decree holder, who had been prosecuting the eviction proceedings, relinquished his right, title and interest in the subject property in favour of his mother, who was neither a party to the original eviction proceedings nor had participated in the adjudication culminating in the Eviction Order dated 17.02.2009. It is, therefore, contended that upon execution of the said Relinquishment Deed, the person prosecuting the proceedings

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ceased to possess any subsisting interest in the property and was consequently disentitled from continuing the execution proceedings. The aforesaid contention, however, proceeds on an incomplete appreciation of the legal effect of the said document.

16. At the outset, it is necessary to distinguish between a relinquishment which results in the transfer of an interest in favour of an independent third party and an arrangement whereby one legal representative of the original decree holder relinquishes his interest in favour of another legal representative of the same decree holder. In the present case, the Relinquishment Deed was executed in favour of the mother of the executant, who is herself a legal representative of the original decree holder. Thus, the transaction did not introduce an independent third-party interest in the subject property, nor did it result in the property passing outside the body of legal representatives of the original decree holder. The fact that the beneficiary of the deed was not a party to the original eviction proceedings does not, by itself, extinguish the rights flowing from the Eviction Order or render the same incapable of enforcement. The beneficiary derived her interest through the original decree holder and not under an independent or competing title. Consequently, the execution of the said document cannot, merely on that account, be construed as a circumstance resulting in the disappearance of the decree holder's interest in the subject property or the cessation of the right to seek enforcement of the Eviction Order.

17. In this regard, the decision of the Hon'ble Supreme Court in ***M/s India Umbrella Manufacturing Co. v. Bhagabandei Agarwalla***[10], 

[10] (2004) 3 SCC 178

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assumes significance. The Hon'ble Supreme Court held that one co-owner is competent to institute and prosecute eviction proceedings against a tenant, the underlying principle being that a co-owner acts not merely in his individual capacity but also in a representative capacity on behalf of the other co-owners, in the absence of any demonstrated disagreement. The Hon'ble Supreme Court further held that the entitlement of the co-owners to seek eviction is ordinarily to be adjudged with reference to the date of institution of the proceedings, except where, by virtue of a subsequent event, the entitlement of the body of co-owners to eject the tenant comes to an end by an act of parties or by operation of law. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

> "**6.** Having heard the learned counsel for the parties we are satisfied that the appeals are liable to be dismissed. It is well settled that one of the co-owners can file a suit for eviction of a tenant in the property generally owned by the co-owners. (See ***Sri Ram Pasricha* v. *Jagannath*** [(1976) 4 SCC 184] and ***Dhannalal* v. *Kalawatibai*** [(2002) 6 SCC 16] , SCC para 25.) This principle is based on the doctrine of agency. One co-owner filing a suit for eviction against the tenant does so on his own behalf in his own right and as an agent of the other co-owners. The consent of other co-owners is assumed as taken unless it is shown that the other co-owners were not agreeable to eject the tenant and the suit was filed in spite of their disagreement. In the present case, the suit was filed by both the co-owners. One of the co-owners cannot withdraw his consent midway the suit so as to prejudice the other co-owner. The suit once filed, the rights of the parties stand crystallised on the date of the suit and the entitlement of the co-owners to seek ejectment must be adjudged by reference to the date of institution of the suit; the only exception being when by virtue of a subsequent event the entitlement of the body of co-owners to eject the tenant comes to an end by act of parties or by operation of law."

18. Applying the aforesaid principle to the facts of the present case, the subsequent Relinquishment Deed does not demonstrate the

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cessation of the collective entitlement of the legal representatives of the original decree holder to seek possession. On the contrary, the interest relinquished by one legal representative came to vest in another legal representative of the original decree holder. There is no material to demonstrate that the beneficiary of the said deed ever disputed the Eviction Order or objected to its enforcement. Thus, the subsequent arrangement merely altered the distribution of interests amongst the legal representatives of the original decree holder and did not, by itself, extinguish the subsisting right to seek possession. The Petitioner, who claims his own right through the original tenant, cannot derive any independent advantage from such an inter se arrangement so as to defeat an eviction order which had already attained finality.

19. It is also material to note that the Relinquishment Deed was executed during the pendency of the objection proceedings. However, the mere fact that the person who had initially prosecuted the eviction proceedings subsequently relinquished his interest cannot, without more, render the adjudication of the pending objections or the enforcement of the Eviction Order a nullity. The Petitioner was required to demonstrate that, as a consequence of the said relinquishment, the person pursuing the execution proceedings had become legally disentitled from doing so and that no other person claiming through the original decree holder was competent to seek enforcement of the order. No such consequence has been established. The beneficiary of the Relinquishment Deed being herself a legal representative of the original decree holder, and there being no challenge to the Eviction Order at her instance, the aforesaid objection

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cannot be sustained merely on the basis of the *inter se* arrangement between the legal representatives. Accordingly, this Court finds no merit in the first objection.

20. The next objection raised by the Objector is that he is not bound by the Eviction Order dated 17.02.2009, as he claims to have succeeded exclusively to the tenancy upon the demise of his father, Deva Singh, in the year 1972. It is his case that, while he continued to reside in and occupy the subject premises after the demise of Deva Singh, his elder brother, Babu Lal, had shifted to Uttar Pradesh on account of his employment and never resided in the premises. It is, accordingly, contended that Babu Lal never acquired or retained any tenancy rights therein and that Sheela Saini, being his wife, could not have been recognised as a tenant. The Decree Holder, on the other hand, maintains that Babu Lal had attorned to the landlord upon the demise of Deva Singh, had paid rent in respect of the premises and that the Objector, being one of the legal heirs of the original tenant, could not claim an exclusive tenancy to the exclusion of the other heirs.

21. The controversy, therefore, is not with respect to the Objector's physical possession of the subject premises, which, in fact, finds acknowledgment in the Eviction Petition No. 365/2008 (Old No. 193/2005) itself. The Eviction Petition establishes the Objector's possession and control over the premises; however, it does not establish that the tenancy had devolved exclusively upon him. The distinction between possession of the tenanted premises and exclusive succession to the tenancy is material. It is not in dispute that Deva Singh was a contractual tenant at the time of his demise in 1972 and

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that his contractual tenancy had not been terminated prior thereto. Consequently, the succession to the tenancy rights upon his death would be governed by the ordinary law of inheritance, and the restrictions governing succession to the interest of a statutory tenant under Section 2(l)(iii) of the DRC Act would have no application to the present case. The legal heirs of Deva Singh, therefore, succeeded to the tenancy rights in accordance with the applicable law of succession, subject to any legally established relinquishment or cessation of such rights.

22. In ***H.C. Pandey v. G.C. Paul***[11], the Hon'ble Supreme Court held that, upon the death of a tenant, the tenancy devolves upon the legal heirs as a single and indivisible tenancy. The said principle was reiterated in ***Suresh Kumar Kohli v. Rakesh Jain***[12]. Thus, the mere fact that one heir continues in occupation cannot, without more, lead to the conclusion that the tenancy devolved exclusively upon such heir. The Objector was, therefore, required to establish that the other legal heirs, particularly Babu Lal, had surrendered or relinquished their rights in the tenancy. The relevant portion of ***H.C. Pandey*** (supra) is reproduced hereinbelow:

> **"4.** It is now well settled that on the death of the original tenant, subject to any provision to the contrary either negativing or limiting the succession, the tenancy rights devolve on the heirs of the deceased tenant. The incidence of the tenancy are the same as those enjoyed by the original tenant. It is a single tenancy which devolves on the heirs. There is no division of the premises or of the rent payable therefor. That is the position as between the landlord and the heirs of the deceased tenant. In other words, the heirs succeed to the tenancy as joint tenants. In the present case it appears that the respondent acted on behalf of the tenants, that he paid rent on behalf of all and he accepted notice also on behalf of

[11] (1989) 3 SCC 77
[12] (2018) 6 SCC 708

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> all. In the circumstances, the notice served on the respondent was sufficient. It seems to us that the view taken in ***Ramesh Chand Bose*** [AIR 1977 All 38 : 1976 AWC 301 : 1976 Ren CJ 380 : (1976) 2 ALR 711] is erroneous where the High Court lays down that the heirs of the deceased tenant succeed as tenants in common. In our opinion, the notice under Section 106 of the Transfer of Property Act served by the appellant on the respondent is a valid notice and therefore the suit must succeed."

23. The material placed on record does not establish such exclusive succession. The Objector relies upon documents such as his voter identity card, electricity bills, school leaving certificate and ration card to demonstrate his residence in the subject premises. These documents may establish his continued occupation, but do not establish the exclusion of the other legal heirs from the tenancy. Significantly, the letter dated 30.08.1972 (Ex. OW1/12), relied upon by the Objector himself, is addressed not only to him but also to his brothers, including Babu Lal. Further, OW1 admitted that rent receipts had been issued by the landlord in the name of Babu Lal prior to October 1974. The Objector's allegation that such receipts were issued collusively does not find adequate corroboration on the record. The subsequent issuance of a rent receipt dated 08.10.1974 in the name of Deva Singh, after the Objector allegedly raised an objection, does not establish that the other legal heirs had relinquished their rights. Rather, the material, taken cumulatively, does not support the assertion that the Objector alone had succeeded to the tenancy. No document evidencing surrender or relinquishment by Babu Lal or the other legal heirs has been produced.

24. The further assertion that Babu Lal had abandoned the tenancy on account of his employment in Uttar Pradesh also remains unsubstantiated. The death certificate of Babu Lal records the subject

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premises as his address/place of death, while OW1 admitted that his marriage with Sheela Saini had been solemnised at the subject premises. These circumstances are inconsistent with the categorical assertion that Babu Lal had severed all connection with the premises. Further, the witnesses examined on behalf of the Objector admittedly had no personal knowledge of the circumstances prevailing at the time of Deva Singh's demise in 1972, and their testimony regarding exclusive succession is substantially based on information received from the Objector. The purported letter dated 14.05.1999 (Ex. OW1/8), relied upon to suggest strained relations between the families and the Objector's forcible occupation, does not inspire confidence in view of OW2's admission that relations between the families continued to remain cordial and that no complaints had been made by either side. The absence of the envelope of the said communication further detracts from the evidentiary value sought to be attributed to it. Likewise, the money-order receipts (Ex. OW1/2 to Ex. OW1/7), even if taken at face value, do not establish exclusive succession or relinquishment by the other heirs. No proceedings for deposit of rent under Section 27 of the DRC Act were initiated by the Objector. In any event, the factum of attempted remittance of rent cannot, by itself, determine the devolution of tenancy rights.

25. The burden of establishing the specific assertion that the tenancy devolved exclusively upon the Objector, to the exclusion of the other legal heirs, rested upon him. In ***Rangammal v. Kuppuswami***[13], the Hon'ble Supreme Court, while explaining Section 101 of the Indian Evidence Act, 1872, reiterated that the burden of

[13] (2011) 12 SCC 220

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proving a fact lies upon the person who asserts it and that such burden cannot be discharged merely by pointing to the weakness of the opposing party's case. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

> "**21.** Section 101 of the Evidence Act, 1872 defines "burden of proof" which clearly lays down that:
> "**101.*Burden of proof*.—Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.
> When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."
> *Thus, the Evidence Act has clearly laid down that the burden of proving a fact always lies upon the person who asserts it. Until such burden is discharged, the other party is not required to be called upon to prove his case. The court has to examine as to whether the person upon whom the burden lies has been able to discharge his burden. Until he arrives at such conclusion, he cannot proceed on the basis of weakness of the other party.*"

26. Applying the aforesaid principle, it was incumbent upon the Objector to establish, through cogent evidence, that Babu Lal and the other legal heirs had surrendered or abandoned their tenancy rights. The evidence led by him falls short of discharging this burden. It is also relevant that the Objector had sought his impleadment in the eviction proceedings by moving an application under Order I Rule 10 CPC, which came to be dismissed vide order dated 17.02.2009, and the appeal preferred against the said order was also dismissed on 18.04.2016. While the dismissal of the said application cannot, in itself, be treated as an adjudication of the Objector's substantive claim to tenancy, it does establish that he had knowledge of the eviction proceedings and had sought to participate therein. The said procedural history, therefore, cannot be ignored while considering his subsequent challenge at the stage of execution.

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27. The Objector's claim to protection under Section 25 of the DRC Act must also be examined in this factual backdrop. The statutory protection is available to a person in occupation who establishes a title independent of the tenant against whom the eviction order has been passed. In the present case, the Objector does not assert any title independent of the original tenancy held by Deva Singh; rather, his claim is founded upon the alleged exclusive devolution of that very tenancy upon him coupled with the exclusive occupation of the subject premises. Having failed to establish that the other legal heirs, particularly Babu Lal, had surrendered or relinquished their tenancy rights, the Objector cannot, merely on the strength of his physical possession, characterise his claim as one founded upon an independent title.

28. In the present case, the Objector has failed to substantiate any title independent of the original tenancy or to establish his claim of exclusive succession thereto. Consequently, the Objector has failed to establish a legally sustainable basis to resist execution of the Eviction Order on the ground that he alone had succeeded to the tenancy or that his claim is founded upon a title independent of the tenancy rights of Babu Lal and the other legal heirs.

29. Viewed in its entirety, the objections raised by the Petitioner are founded upon an erroneous understanding of the legal consequences flowing from the devolution of tenancy rights and the operation of Section 25 of the DRC Act. The learned ARC has considered the material aspects of the controversy, applied the settled principles governing succession to tenancy and correctly concluded that the Petitioner had failed to establish any independent right capable of

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resisting execution of the eviction order.

30. This Court finds no perversity, manifest illegality or material irregularity in the said findings. Consequently, the present Petition, being devoid of merit, is dismissed.

31. The present Petition, along with pending Application(s), if any, stands disposed of in the aforesaid terms.

**HARISH VAIDYANATHAN SHANKAR, J.**

**OCTOBER 28, 2026/tk/ma**

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