

**In the Court of SCJ-cum-RC, (West District)
Tis Hazari Courts, Delhi.
Presided by : Ms. Richa Sharma**

Ex. No. 412/2024

Ms. Krishna Wanti
W/o Late Sh. Amir Chand
R/o H. No. 13, Road No. 7,
2nd Floor, East Punjabi Bagh,
New Delhi-110026

.....Decree Holder

VERSUS

Sh. Ashok Gupta,
Shop No. 1A, Plot No. 28,
Karampura Shopping Complex,
New Delhi-110015

.....Judgement Debtor

ORDER

1. By way of the present order, this Court shall decide the objections filed by the Objector namely Sh. Vinod Kumar Gupta under Order XXI Rule 97 read with Section 47 and Section 151 CPC seeking obstruction of execution of the eviction order passed in favour of the DH in respect of Shop No. 28 (Ground Floor), DDA Local Shopping Centre, Karampura, New Delhi-110015 (hereinafter referred to as the “suit premises”).

BRIEF FACTS

2. The DH had filed an eviction petition against the JD in respect of the suit premises on the ground of bona fide requirement under Section 14(1)(e) of the Delhi Rent Control Act.

3. It was the case of the DH, that the husband of the DH was owner to the extent of 50% undivided share in the suit property and the remaining share was owned by Sh. Chandi Ram. After the demise of her husband on 01.08.2010, the DH inherited the property by virtue of Will dated 01.02.1984. It was further pleaded, that the JD was inducted as tenant in the suit premises vide lease deed executed in June, 1979 at a monthly rent of Rs.250/- per month and, therefore, relationship of landlord and tenant existed between the parties.
4. The JD contested the eviction petition by filing leave to defend application, however, the same was dismissed vide judgment dated 13.02.2024 and eviction order was passed in favour of the DH. The said order was assailed before the Hon'ble High Court of Delhi by way of revision petition, however, the same also came to be dismissed vide order dated 09.01.2025 and the eviction order attained finality.
5. Thereafter, during execution proceedings, the present objections under Order XXI Rule 97 read with Section 47 & 151 CPC have been preferred by the Objector/Applicant, who is admittedly the real brother of the JD.

OBJECTIONS OF THE OBJECTOR/APPLICANT

6. In brief, the objector has alleged that he has been in uninterrupted and exclusive possession of the suit premises since August, 1979 and has been running business in the name and style of M/s Gupta Medical & General Store independently from the suit premises on the strength of Drug Licence issued in his favour.

7. The objector has further alleged, that the premises were handed over to him by Sh. Amir Chand and Sh. Chandi Ram after receiving pagri/premium amount and that he has been enjoying independent rights in the suit premises since then.
8. It is further averred, that electricity connection was restored in his favour pursuant to proceedings instituted against BSES and that he has also deposited property tax in respect of the suit premises. The objector has further alleged, that neither the DH nor the JD disclosed his possession before the Rent Controller and that the eviction order has been obtained by concealment of material facts and by way of collusion between the DH and the JD.
9. It is also alleged, that the eviction proceedings are vitiated on account of non-joinder of the objector and that the present eviction order is not executable against him as he is in independent possession of the suit premises.

**REPLY ON BEHALF OF DH TO APPLICATION UNDER
ORDER XXI RULE 97 READ WITH SECTION 47 & 151 CPC**

10. The DH filed detailed reply opposing the objections and contended, that the present objections are false, frivolous, collusive and nothing but an abuse of the process of law. It is specifically contended, that there never existed any contractual relationship between the DH and the objector and that no lease deed, rent agreement or any document showing creation of tenancy in favour of the objector has been placed on record.

11.It is further contended, that the JD himself admitted the landlord-tenant relationship in the eviction proceedings and had admitted execution of lease deed dated June, 1979. The DH has further contended, that in the leave to defend application as well as before the Hon'ble High Court, the JD himself claimed, that he was running medical store/business from the suit premises and had also relied upon rent receipts, photographs and property tax receipts in support of his possession.

12.It is further submitted, that the same property tax receipt dated 08.08.2018 relied upon by the objector was earlier relied upon by the JD in the eviction proceedings, thereby clearly reflecting collusion between the objector and the JD.

13.The DH has further alleged, that the licence relied upon by the objector were obtained without the consent, knowledge or permission of the DH and merely because a Drug Licence or electricity connection exists in the name of the objector, no independent legal right, title or tenancy is created in his favour. It is further submitted, that the objector had access to the premises only on account of his relationship with the JD and the present objections have been filed only after dismissal of the revision petition before the Hon'ble High Court solely with a view to obstruct and delay execution of the eviction decree.

14.I have heard the submissions advanced by the Ld. Counsels for both the parties and have perused the record carefully.

ANALYSIS AND FINDINGS

15. At the outset, it is pertinent to note that the eviction order dated 13.02.2024 has already attained finality after dismissal of the revision petition preferred before the Hon'ble High Court of Delhi.

16. The principal contention of the Objector is that he is in independent possession of the suit premises since August, 1979 and that he has independent rights therein. However, except bald assertions, the objector has failed to place on record any legally enforceable document establishing creation of tenancy or any independent right in his favour. Admittedly, no lease deed, rent agreement, rent receipt, tenancy document or written contract executed between the DH or her predecessor-in-interest and the objector has been filed on record.

17. On the contrary, the material placed on record clearly demonstrates that the JD himself had admitted execution of lease deed dated June, 1979 and existence of landlord-tenant relationship between the parties during eviction proceedings.

18. Not only this, the JD had also claimed before the Hon'ble High Court that he himself was running medical store/business from the suit premises under the name and style of M/s Gupta Medical & General Store.

Significantly, the same property tax receipt dated 08.08.2018, now relied upon by the objector to establish his possession, was admittedly relied upon earlier by the JD in the eviction proceedings.

The said circumstance substantially probabalizes the plea of the DH, that the present objections have been filed in collusion with the JD only to obstruct execution of the decree.

19.The plea of the objector that he had no knowledge about the eviction proceedings also does not inspire confidence. The objector is admittedly the real brother of the JD and both are residents of the same locality. The eviction litigation remained pending for considerable time and even traveled upto the Hon'ble High Court. In such circumstances, the plea of complete ignorance appears wholly improbable and unconvincing.

20.The reliance placed by the objector upon Drug Licence, electricity connection and payment of property tax is also of no assistance to him. Mere issuance of Drug Licence or electricity connection does not create or confer any tenancy, ownership or independent possessory rights in immovable property.

Similarly, mere payment of certain property tax dues by itself cannot establish landlord-tenant relationship or confer any legal right in the property.

21.The objector has also alleged payment of pagri/premium amount to Sh. Amir Chand and Sh. Chandi Ram. However, no documentary proof whatsoever regarding such alleged payment has been produced. Even the alleged amount, mode of payment or any contemporaneous document has not been disclosed. The entire objections are conspicuously silent as to the exact nature of possession of the Objector, namely whether he claims himself to be

tenant, licensee or owner. Such vague and self-contradictory pleas further weaken the case of the Objector and furthermore it is a settled proposition of law that executing Court cannot go beyond decree and the said contention are not only vague and unsubstantiated but at the same time are also transgressing the periphery of the decree pass.

The objections under Order XXI Rule 97 CPC cannot be permitted to become a device for re-trial of issues already adjudicated.

22. Further, court deems it fit to place reliance on the judgment of Hon'ble Supreme Court titled as **“Suresh Kumar Kohli Vs. Rakesh Jain & Anr”** dated 19.04.2018, whereby it was held as under:

“19) From a perusal of lease deed dated 15.11.1975, we find that the suit premises was let out jointly to late Shri Ishwar Chand Jain and Shri Ramesh Chand Jain, son of late Shri Ishwar Chand Jain. Thus, both of them were joint tenants and upon the death of Shri Ishwar Chand Jain, Respondent No. 1 inherited the tenancy as joint tenant only. Further, in view of a catena of decisions of this Court on the subject as well as the principles laid down in [H.C. Pandey \(supra\)](#), we are of the opinion that the High Court erred in holding that the decisions relied upon by learned senior counsel for the appellant are not applicable to the facts of the present case on the premise that in the given case itself the validity and binding nature of the notice given to one of the legal representatives of the deceased tenant under Section 106 of the Transfer of property Act, 1882 on other legal representatives was determined only

on the basis of the fact that they hold the tenancy as joint tenants and notice given to one means notice given to all.

Conclusion:-

20) We are of the view that in the light of [H.C. Pandey \(supra\)](#), the situation is very clear that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenant is occupation of all the joint tenants. It is not necessary for landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons who are occupying the property, as party. There may be a case where landlord is not aware of all the legal heirs of deceased tenant and impleading only those heirs who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of the joint tenant is sufficient against all the joint tenants and all joint tenants are bound by the order of the Rent Controller as joint tenancy is one tenancy and is not a tenancy split into different legal heirs. Thus, the plea of the tenants on this count must fail.

21) Even otherwise, the intervention at this belated stage of execution proceedings, in the fact and circumstances of the case, seems to be a deliberate attempt to nullify the decree passed in favour of the appellant herein as when Respondent No.1 filed objections under Section 47 Order XXI of the Code, he claimed to be in possession of the suit premises, however, he failed to produce any evidence except two rent receipts for the months of December, 1993 and January 1994 that too when the Respondent No. 1 in

his objection petition filed in the execution proceedings of the eviction decree has himself admitted that there exists a dispute between him and Respondent No. 2 and they had parted their ways.

23. In light of the reliance placed as above, the objection raised by the objector vide the instant application is sans merit as it is categorically held by the Hon'ble Apex Court, that the impleadment of all the LRs/tenant is not a mandatory requirement and the ratio *decidendi* that is applicable to one of the LRs/tenant is also applicable to all of them. In this particular case also, the objector is claiming only through the principal tenant i.e. JD, his real brother and both of them are contending that they are running a chemist shop in the same premises. Once an effective finding has come on merits qua one of the tenant i.e. the JD being the tenant of the DH and running a chemist shop from the tenanted premises, the said principal shall be equally applicable to any person claiming through JD or as a tenant on the same lines as that of JD.

In the considered opinion of this Court, the present objections do not disclose any bona fide or legally enforceable independent right in favour of the Objector. Rather, the material on record clearly indicates that the objections have been filed as an afterthought and in collusion with the JD solely to delay and obstruct execution of the eviction decree.

Accordingly, the objections/application filed by the Objector under Order XXI Rule 97 read with Section 47 and Section 151 CPC being devoid of merits are hereby dismissed.

24. Therefore, as an epilogue to the above, let fresh warrants of possession be issued for 31.07.2026 against the JD and in favour of the DH in respect of *suit property i.e. shop no. 1A, Plot No. 28, Karampura Shopping Centre Delhi-110015 more specifically shown in the site plan annexed with the petition*, as per the certified copy of the site plan on filing of PF. Further, Bailiff is directed to remove all hurdles including lock, doors etc. in order to execute present warrants of possession. Further, Bailiff is directed to take all other necessary auxiliary steps for execution of present warrants of possession. DH shall file an affidavit to the effect that there is no stay or appeal pending on the execution of the eviction order.

25. Concerned SHO is directed to provide police aid and assistance including lady police officer, if required, to the Bailiff for execution of warrant of possession.

**Announced in the open Court
on 11.06.2026**

**(Richa Sharma)
Sr. Civil Judge – Cum - RC
THC / Delhi / 11.06.2026**