



2025:DHC:7530



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 29th, August, 2025***+ **CM(M) 1274/2025 & CM APPL. 42605-42606/2025****LEELAWATI**

.....Petitioner

Through: Mr. Krishna Chandra Dubey, Mr.
Ashok Kr. Singh, Mr. Abhishek
Agarwal and Ms. Uma Tarafdar,
Advocates

versus

RAJIV KUMAR

.....Respondent

Through: Mr. Akil Rataeeya and Mr. Movish
Lohia, Advocates

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner Smt. Leelawati is wife of judgment-debtor Sh. Munshi Lal and has taken exception to order dated 04.07.2025 whereby her petition filed under Order XXI Rule 99 CPC has been dismissed summarily.
2. In order to appreciate her contentions in effective manner, let me give a very brief backdrop of the factual aspects.
3. A suit was filed by one Sh. Rajiv Kumar (decree-holder) against Sh. Munshi Lal in the year 2022.
4. According to plaintiff Sh. Rajeev Kumar (respondent herein), he was the absolute and sole owner of property in question situated at Qutub Vihar, Phase-I, New Delhi. He submitted chain of the documents demonstrating as to how he became owner of the property. Lastly the aforesaid property was sold by Smt. Leelawati to Sh. Krishan Kumar on 07.05.2016 and plaintiff



purchased the property from Sh. Krishan Kumar on 16.05.2019.

5. Based on the aforesaid documents and other averments, he sought possession, injunction and damages.

6. Defendant was, though, duly served in the aforesaid suit but despite grant of numerous opportunities, he did not defend the matter and did not even file any written statement and, eventually, on the basis of the evidence led by the plaintiff, a decree was passed in his favour, *inter alia*, for the possession of the suit property.

7. Admittedly, the aforesaid decree was challenged by the defendant/judgment-debtor Sh. Munshi Lal by filing a *Regular First Appeal* before learned District Judge and such RFA was also dismissed. Such order has also been challenged by the judgment-debtor but his *Regular Second Appeal* is still pending adjudication.

8. The objection application under Order XXI Rule 99 CPC has been filed by the wife of judgment-debtor with the assertion that the aforesaid decree has been obtained by way of fraud. According her, decree-holder was running a gang of land grabbers and had trapped several persons. According to her, Mr. Krishan Kumar was also one of the active members of his gang and the *modus operandi* was to get hold of the *property documents* under mortgage on advance of loan amount and then to transfer the property documents in illegal manner.

9. The aforesaid objection application was taken up by learned Executing Court on 04.07.2025 and the learned Executing Court considered the fact that the objector has already filed a separate civil suit against not only the decree holder but also against Sh. Krishan Kumar whereby she is seeking declaration and injunction. The declaration is to the effect that documents executed by



her in favour of Sh. Krishan Kumar be declared null and void as these were got prepared in fraudulent manner.

10. The aforesaid suit is still pending adjudication and her application filed under Order XXXIX Rules 1 & 2 CPC has also been dismissed by the learned Trial Court.

11. Relevant provision i.e. Order XXI Rule 99 CPC read as under:-

“99. Dispossession by decree-holder or purchaser.—(1) Where any person other than the judgment debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession.

(2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.”

12. Learned counsel for petitioner submits that learned Executing Court should have decided the objection petition on merits, instead of discarding the same by saying that it was premature. Relying on *Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal: (1997) 3 SCC 694*, it has been argued that even if she continued to be in possession, the learned Executing Court should not have dismissed her objection by holding that the aforesaid application would kick in only after she was, eventually, dispossessed.

13. Learned counsel for respondent/decreree-holder has refuted the abovesaid contention and while relying upon *Periyammal (dead through LRs) & Ors. vs. V. Rajamani & Anr.: 2025 SCC OnLine SC 507* and *Silverline Forum Pvt. Ltd. Vs. Rajiv Trust and Another: (1998) 3 SCC 723*, he submits that objection by a third party can only be filed after getting dispossessed. Moreover, the objection in hand is at the behest of judgment-debtor only and not from any third party.



14. Fact, however, remains that the aforesaid provision i.e. Order XXI Rule 99 CPC is meant for a third party i.e. stranger to a decree. A judgment-debtor cannot make use of the aforesaid provision. When asked, learned counsel for petitioner, in all fairness, submitted that there is no matrimonial discord between petitioner and her husband.

15. Manifestly, the objection application is, for all purposes, at the behest of her husband only.

16. Moreover, for totally unexplained reasons, her husband did not attempt to defend the aforesaid suit and suffered one-sided decree and as already noticed above, his *Regular First Appeal* has also been dismissed.

17. In the petition in question also in para-2, it has been mentioned that *petitioner and her husband Sh. Munshi Lal had filed an application under Order XXI Rule 99 CPC before the learned Executing Court which had been dismissed*. Such assertion also clearly indicates that Smt. Leelawati is only a face in the front and the strings are pulled by her husband who is judgment-debtor and in such a peculiar situation, such objector cannot be permitted to raise grievance that it has independent right to maintain the same, being third party.

18. Thus, what cannot be done directly cannot be permitted to be done indirectly.

19. Therefore, this Court does not find any real requirement of interfering with the impugned order and the petition is hereby dismissed.

20. I also clarify that the observations herein above are limited for the purpose of assessing the merit of the objection application and would not be taken as expression on merits with respect to the suit filed by objector.

21. Needless to say, objective behind such objection petition is to ensure



2025:DHC:7530



that there is no unnecessary multiplicity of the proceedings and all questions related to “*execution and its discharge*” are decided by the Executing Court. The decree is based on documents which had been executed by the objector herself in favour of Sh. Krishan Kumar and, thereafter, Sh. Krishan Kumar had sold the same property to the plaintiff/decreed-holder. If execution of such documents was fraudulent in nature, there was no one to have prevented the defendant or for that matter his wife to have challenged execution of such documents, as quickly and possible, particularly, when the documents in question were executed by her way back in the year 2016. Instead of challenging those very documents then and there, she has now filed a separate suit challenging the same and in such a peculiar situation, the execution petition, even otherwise, has no merit as she has already filed a substantive suit.

22. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 29, 2025/dr/js