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

% ***Judgment reserved on: 21.09.2026***
Judgment pronounced on:18.11.2026

\# **CNR No. DLHC010449042026**

\+ **EX.F.A. 69/2026, CM APPL. 64451/2026 (Stay), CM APPL. 64452/2026 (Ex. From filing certified copies of the annexures), CM APPL. 64453/2026 (Ex. From filing complete trial court record), CM APPL. 64454/2026 (Delay of 15 days in filing the appeal) & CM APPL. 64455/2026 (Delay of 124 days in Re-filing the appeal)**

ANAMIKA MISHRA .....Appellant

Through: Ms. Shruti Munjal, Mr. Gurmehar Singh & Mr. Aditya, Advs.

versus

KRISHAN KUMAR MISHRA & ANR. .....Respondents

Through: *Nemo.*

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Execution First Appeal, under Order XXI Rule 58(4) read with Order XLI Rule 1 of the **Code of Civil Procedure, 1908**[1], has been filed assailing the **Order dated 30.01.2026**[2] passed by the **learned District Judge-01, Shahdara District, Karkardooma**

[1] CPC
[2] Impugned Order

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Courts, Delhi[3], in EX. No. 43/2024, by way of which the learned Executing Court dismissed the Objections raised by the Appellant herein.

BRIEF FACTS

2. Shorn of unnecessary details, the facts germane to the present Appeal are as under:

a. The Appellant herein is the wife of Respondent No. 2 and the sister-in-law of Respondent No. 1 herein.

b. It is stated that disputes arose *inter se* the Respondents herein pertaining to a shop purchased by their father.

c. Pursuant to the disputes, Respondent No. 1 instituted a suit against Respondent No. 2/husband of the Appellant for possession, mesne profits and permanent injunction in respect of property bearing No. C-2/1, Golden Park, Shiv Puri Extension, Delhi 110051, measuring approximately 15 feet by 9 feet.

d. The learned Trial Court decreed the said suit *vide* the Judgement and Decree dated 04.05.2023 in favour of Respondent No. 1 and against Respondent No. 2.

e. Thereafter, Respondent No. 1/Decree Holder initiated Execution No. 43 of 2024 against Respondent No. 2 and sought delivery of possession of the aforesaid premises pursuant to the decree.

f. The Appellant herein preferred objections in the said Execution Proceedings on the grounds that the Appellant was in settled possession of the suit property and that the suit property

[3] Learned Executing Court

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was purchased by the father-in-law of the Appellant and never got partitioned and that the said Decree was obtained by fraud.

g. Thereafter, the learned Executing Court proceeded to pass the Order impugned herein. Aggrieved by the same, the Appellant herein has preferred the present Appeal.

h. It is pertinent to mention herein that no objections have been preferred by Respondent No. 2/Judgement Debtor/husband of the Appellant and no challenge has been instituted against the said Decree.

SUBMISSIONS ON BEHALF OF THE APPELLANT

3. Learned counsel appearing on behalf of the Appellant would seek to challenge the Impugned Order on the following grounds:

a. Learned counsel appearing on behalf of the Appellant would submit that the learned Executing Court has erred in dismissing her objections without appreciating that she was neither a party to Civil Suit No. 1273 of 2016 nor was the decree dated 04.05.2023 passed against her. She would contend that merely because the Appellant is the wife of the Judgment Debtor, she could not have been treated as bound by the decree, particularly when she had asserted an independent right and settled possession over the subject premises.

b. She would further submit that the objections raised by the Appellant were required to be adjudicated under Order XXI Rules 97 to 101 of the CPC, as she had asserted an independent possessory claim over the decretal property. The learned Executing Court, instead of determining whether the Appellant was bound by the decree, erroneously treated her objections as

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an attempt to reopen the decree and dismissed the same without conducting an inquiry into her claim.

c. Learned counsel would contend that the learned Executing Court has erroneously conflated the questions of ownership and possession. She would submit that the BSES electricity receipt dated 05.01.2017, standing in the Appellant's name, was relied upon as corroborative evidence of her settled possession and not as proof of ownership. Consequently, the absence of title documents or mutation entries could not, by itself, justify rejection of her objections.

d. She would further place reliance upon the judgments of the Supreme Court in ***Periyammal (Dead) through LRs v. V. Rajamani*** [4] **,** ***Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal*** [5] and ***Silverline Forum Pvt. Ltd. v. Rajiv Trust*** [6] to contend that an independent claim raised by a person resisting execution is required to be adjudicated under Order XXI CPC before such person can be dispossessed.

e. Learned counsel would further submit that the learned Executing Court failed to consider the earlier proceedings in Civil Suit No. 2235 of 2016, wherein Respondent No. 1 had acknowledged that the shop in question had been purchased by his father, Late Shri Prem Shankar Mishra. She would contend that the said admission was inconsistent with the subsequent claim of Respondent No. 1 that he had independently purchased the property in 2002. She would also rely upon the judgment

[4] (2025) SCC 568
[5] (1997) 3 SCC 694
[6] (1998) 3 SCC 723

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dated 16.07.2019 passed in the said proceedings, submitting that the rights of the legal heirs in the properties left behind by their father had not been partitioned.

f. It is pertinent to note herein that no further arguments were advanced by the learned counsel appearing on behalf of the Appellant, and it is on the basis of the aforenoted arguments, along with keeping in mind that no objections have been preferred by Respondent No. 2/Judgement Debtor/husband of the Appellant and no challenge has been instituted against the said Decree, that this Court will proceed to adjudicate the present *lis.*

ANALYSIS AND CONCLUSION

4. This Court has heard the learned counsel appearing for the Appellant, and with her able assistance, perused the material on record along with the Impugned Order.

5. At this juncture, this Court deems it appropriate to reproduce herein below the relevant findings rendered by the learned Executing Court in the Impugned Order, which read as under:

> "14. Before proceeding further, it is relevant to mention herein that it is settled that executive court cannot go beyond the decree and cannot decide whether the decree passed is legal, illegal or is erroneous. However, the executive court can consider whether the decree sought to be executive is void or not. Reliance can be placed in V. Chinna Laskshmaiah Vs. Samurla Ramaiah AIR 1991 AP 177.
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> 15. Reliance can be further placed in "Vasudev Dhangibhai Modi Vs. Raja Bhai Abdul Rehman (1970 1 SCC 670)" wherein Hon'ble Supreme Court of India has held that:-
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> > "6. Court executing a decree cannot go beyond the decree between the parties and their representative, it must take a decree according to its tenor and cannot entertain any

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> objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even it be erronrous is still binding between the parties".

16. Section 47 CPC permits the executing court to decide all questions arising between the parties to the suit or their representatives relating to the execution, discharge, or satisfaction of the decree

17. Order XXI Rule 22 CPC provides for issuance of notice to the judgment debtor before execution in certain circumstances. The provision does not contemplate objections by third parties who were not parties to the decree. While Section 151 CPC preserves the inherent powers of the Court, such powers cannot be invoked to override the express provisions of law. The executing court is bound by the decree and cannot sit in appeal or review over it. The Hon'ble Supreme Court has consistently held that the executing court cannot go behind the decree unless it is shown to be a nullity on the face of the record.

18. In the present case, the decree has been passed against the judgment debtor after full contest. As per record, no appeal has been filed so far, thus, the decree has attained finality. The objector, being the wife of the judgment debtor, cannot claim independent rights in execution proceedings. Her application is, therefore, not maintainable.

19. The objector relies upon electricity bills to establish possession. It is settled that electricity bills are not conclusive proof of ownership. The same is best as ancillary document. No title deed, partition record, or mutation entry has been produced to substantiate her claim. Therefore, objector's claim of independent possession is, therefore, untenable.

20. Frand vitiates all judicial acts, but it must be specifically pleaded and proved. Vague allegations are insufficient. The objector relies upon statements made by the decree holder in Civil Suit No. 2235/16. However, the decree holder has explained that those statements pertained to shop No. 2, which was distinct from the present suit property (shop No. 3). The distinction between the two shops is material. The decree holder's statements in the earlier suit cannot be read as contradictory to his claim in the present proceedings.

21. Apart from that, no material evidence has been produced to show that the decree holder fabricated documents or misled the Court in obtaining the present decree. The decree was passed after due consideration of evidence by the Court. Therefore, the allegation of fraud is, therefore, baseless.

22. The prayer for stay of execution proceedings amounts interference with the administration of justice. The decree has been passed after full contest and has attained finality. Granting stay in such circumstances would defeat the very purpose of execution and

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> encourage frivolous objections. The balance of convenience is clearly in favour of the decree holder, who is entitled to reap the fruits of his decree.
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> 23. For the reasons recorded above, this Court is of the considered view that the present application is not maintainable under Order XXI Rule 22 read with Section 151 CPC. The objector has failed to establish independent possession or ownership rights in the suit property. The allegation of fraud is vague, unsubstantiated, and without merit. The prayer for stay of execution proceedings is misconceived and liable to be rejected. Accordingly, the application/objections filed by Ms. Anamika Mishra is hereby dismissed and disposed of"
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> ***(emphasis supplied)***

6. A perusal of the Impugned Order would show that the learned Executing Court has considered the objections raised by the Appellant and rejected the same for cogent reasons. This Court is unable to find any infirmity in the approach adopted by the learned Executing Court.

7. At the outset, it is relevant to note that the decree dated 04.05.2023 was passed in a contested suit instituted by Respondent No. 1 against Respondent No. 2, who is the husband of the present Appellant. The said decree has neither been challenged by Respondent No. 2 nor has he preferred any objections in the execution proceedings seeking to resist its execution. Consequently, the decree has attained finality, and Respondent No. 1 is entitled to seek its execution in accordance with law. While the absence of objections by Respondent No. 2 would not, by itself, extinguish any independently established right of the Appellant, the same is certainly a relevant circumstance to be considered while examining the nature and substance of the objections raised by her.

8. The principal contention of the Appellant is that she is in settled possession of the subject premises and, therefore, her objections were required to be adjudicated under Order XXI Rules 97 to 101 of the CPC. This Court is unable to accept the aforesaid contention in the

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facts of the present case. The Appellant has primarily relied upon an electricity receipt dated 05.01.2017 standing in her name. However, the said document, at its highest, is only corroborative material and does not, by itself, establish either an independent right in the subject premises or possession independent of the Judgment Debtor. Significantly, no other documentary material has been placed on record to substantiate the nature and source of the independent right claimed by the Appellant.

9. It is true that an executing court is required to adjudicate the claims of persons resisting execution where such claims fall within the ambit of Order XXI CPC. However, the statutory protection available to a third-party objector cannot be construed as enabling a person to obstruct execution merely by asserting an independent claim without placing any substantive material in support thereof. The judgments relied upon by learned counsel for the Appellant, including ***Periyammal (Dead) through LRs (supra)***, ***Brahmdeo Chaudhary (supra)***, and ***Silverline Forum Pvt. Ltd. (supra)***, do not dispense with the requirement of the objector establishing a *bona fide* independent claim warranting adjudication. In the present case, the material placed on record does not establish such an independent claim.

10. This Court also finds no merit in the reliance placed by the Appellant upon the proceedings in Civil Suit No. 2235 of 2016. The statement attributed to Respondent No. 1 in the said proceedings, as noticed by the learned Executing Court, pertained to Shop No. 2, whereas the decree under execution concerns Shop No. 3. In the absence of any material establishing that the two shops are one and the same or that the said statement has any bearing upon the ownership of

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the decretal premises, no adverse inference can be drawn against Respondent No. 1 on that basis.

11. Equally, the judgment dated 16.07.2019 passed in the earlier proceedings does not advance the case of the Appellant. The mere fact that disputes concerning the properties left behind by Late Shri Prem Shankar Mishra had arisen between his legal heirs, or that liberty was granted to institute appropriate proceedings for partition, would not, in itself, establish that the subject premises formed part of an undivided estate or that the Appellant had acquired any independent right therein. More importantly, the Appellant has not placed any material on record to demonstrate how the findings in the said proceedings render the decree dated 04.05.2023 inexecutable.

12. The allegations of fraud and fabrication are also bereft of any substantive material. Fraud, being a serious allegation, cannot be accepted on the basis of mere inconsistencies alleged in the stands taken by a party in different proceedings. The Appellant has not produced any material to establish that the documents forming the basis of the decree dated 04.05.2023 were fabricated or that the decree was obtained by practising fraud upon the learned Trial Court. The learned Executing Court has, therefore, rightly rejected the said contention.

13. This Court is also conscious of the fact that the decree has been passed against Respondent No. 2, who contested the original suit and has not chosen either to challenge the decree or to raise any objection to its execution. The Appellant, who is his wife, cannot, in the absence of any substantiated independent right or interest in the decretal premises, seek to indirectly reopen the issues which already stand adjudicated between the parties to the original suit. The mere assertion

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of possession, unsupported by material demonstrating an independent possessory interest, cannot furnish a ground to indefinitely obstruct execution of a decree which has attained finality.

14. In view of the aforesaid discussion, this Court finds that the learned Executing Court has duly considered the objections raised by the Appellant and has rightly concluded that the material placed on record does not establish any independent right or interest in the subject premises warranting interference with the execution proceedings. No perversity, illegality or material infirmity has been demonstrated in the Impugned Order so as to warrant interference by this Court in the present appellate proceedings.

15. Accordingly, the present Appeal, being devoid of merit, is dismissed.

16. The present Appeal, along with pending applications, if any, also stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 18, 2026/ va

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