



CR No.5068 of 2025

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Civil Revision No.5068 of 2025

Date of decision: November 17th, 2025

Neelam Rani @ Neelam Singla

...Petitioner

Versus

Rajesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. R.N. Lohan, Mr. Ajay Kumar and
Ms. Manisha Rani, Advocates
for the petitioner.

Mr. Pankaj Gautam, Advocate
for the respondents.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present revision petition is to the order dated 07.05.2025, by the decree holder (petitioner), vide which the Executing Court instead of summarily dismissing the objections filed by the judgment debtors/respondents, has framed issues and has adjourned the case for evidence of the judgment debtors, thus, permitting the judgment debtors to endlessly hold on to the unauthorised possession of the property in question even after the eviction order passed against the respondents/judgment debtors had become final.



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BACKGROUND OF THE CASE

2. Present petitioner had filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, for eviction of the respondents from a single storey shop situated on Somnath Mandir Road, Opposite New Subzi Mandi, Jind and which was bounded as under:

East: 7'-6" Geeta Ice Factory;

West: 7'-6" Somnath Mandir Road;

North: 19' Shop of Krishan Mohan S/o Sh. Pawan".

The said petition was filed against present respondents/judgment debtors, who were tenants in the said property.

3. On 17.02.2016, the said petition was disposed of in terms of the compromise and the present respondents were directed to hand over the vacant possession of the suit premises to the present petitioners on 31.12.2020 and were also directed to pay rent at the rate of ₹4,125/- per month plus house tax against receipt. It was further observed that in case the respondents failed to give the vacant possession of the suit premises, then, the petitioner shall be entitled to get possession by way of execution.

The order dated 17.02.2016 is reproduced hereinbelow:

“Present: Shri S.K. Garg, Advocate for petitioner.

Shri P.K. Mittal, Advocate for respondents.

The learned counsel for parties submitted that they have reached at compromise Ex. C1 and compromise deed is placed on record. They urged that the present



petition may be disposed off in terms of compromise Ex. C1. Record perused. The compromise deed duly signed by the parties and their counsels is placed on record and the statements of parties regarding compromise has already been recorded wherein they have accepted the compromise deed as correct and requested to dispose of the instant petition in terms of compromise deed. In given circumstances, the eviction petition is allowed. The respondent is directed to hand over the vacant possession of the suit premises to the petitioner on 31.12.2020. The respondent shall continue to pay rent at the rate of Rs. 4,125/- per month plus house tax against receipt. The respondent shall also regularly pay the electricity charges. He will not deliver the actual possession of the suit premises to any person other than the petitioner. In case the respondent fails to deliver the vacant possession of the suit shop to the petitioner in the manner referred above, the petitioner shall be entitled to get possession by way of execution. File be consigned to the record room.

(Rajesh Gupta)

RC, Jind. 17.2.2016.”

4. It is not disputed before this Court that the said order has attained finality as no appeal has been filed against the same nor any application for setting aside the said order dated 17.02.2016 has been filed. Since the respondents did not hand over the possession, thus, the petitioner filed an execution application and in the execution application on 01.08.2024, the Executing Court was pleased to pass the following order:



“Present: *Sh. Naveen Bidhan, Advocate for DH.*
Sh. N.K. Gautam, Advocate for Jds.

*Today the matter has come up for filing objections by Jds. **Objections has not been filed by the Jds.** Learned counsel for the DH stated that warrant of possession may kindly be issued and otherwise no ground exist for filing objections by Jds as compromise has already been effected between the parties, according to which they had to handover the possession of the demised premises i.e. shop in dispute to petitioner/DH by 31.12.2020, which has yet not been complied with by the Jds.*

In view of the submissions made, there exists no ground for further adjournment for filing objections by Jds. Warrant of possession be issued qua the suit property on due compliance by the DH for 28.10.2024.

Report of concerned Bailiff shall be awaited for date fixed.

Dated:-01.08.2024

(Pooja Singla)

CJ(SD)/RC

Jind/UID No.HR-0293”

Even the abovesaid order has attained finality as no challenge has been made to the same.

5. However, subsequently on 23.08.2024, an application was moved by the respondents/judgment debtors for recalling the warrant of possession issued on 01.08.2024, to which a reply was filed by the



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petitioner/decreed holder stating that the said application was frivolous and was filed only to prolong the execution proceedings. The Executing Court, instead of dismissing the said objections summarily, however, vide impugned order dated 07.05.2025 chose to frame issues and adjourned the case for the evidence of the respondents-judgment debtors. The issues framed vide order dated 07.05.2025 are reproduced hereinbelow:

“Keeping in view the objections filed by the JDs, this Court is of the view that before proceeding further in this matter, it is necessary to provide an opportunity to both the sides to prove about the status of the suit shop. Hence, the following issues are hereby framed:-

- 1. Whether subsequent to sale deed no. 2971 dated 21 28.08.2023, JDs have become owner of the disputed property? OPA*
- 2. Whether the warrant of possession issued in favour of the decree-holder is liable to be recalled? OPA*
- 3. Whether the decree-holder has executed the sale deed no. 2971 dated 28.08.2023? OPR*

Case is adjourned to 09.07.2025 for evidence of applicant.

Date of Order: 07.05.2025

(Jasbir)

Civil Judge (Sr. Divn.), Jind.

(UID No. HR0302)”



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ARGUMENTS ON BEHALF OF THE PETITIONER:

6. Learned counsel for the petitioner has submitted that the objections raised by the respondents/judgment debtors were required to be summarily rejected. It is submitted that Neelam Rani (petitioner) was admittedly the landlord and the eviction order passed in favour of Neelam Rani had attained finality and thus, any alleged subsequent purchase of a part of the suit property by the respondents from the co-sharers was irrelevant and cannot come in the way of the execution of the decree. It is submitted that even the sale deed relied upon by the respondents was dated 28.08.2023 and was much subsequent to the passing of the decree and was not executed by the petitioner and was only with respect to 1276/1046817 share out of the entire property measuring 41 *kanals* 2 *marlas* and thus, it is apparent that even as per the case of the objectors, a minor share was purchased by them from the whole property. It is submitted that it is a matter of settled law that even if a tenant has purchased a share from the co-sharers, then also, he cannot oppose the eviction proceedings filed by the landlord and has to first surrender possession and then if permissible, seek partition. In support of his arguments, learned counsel for the petitioner has relied upon the judgments of the coordinate Bench of this Court in *Civil Revision No.15 of 2018* decided on 09.01.2018 titled as *Satish Kumar Versus Dev Bala and others* and *Mohan Lal Versus Amrik Singh and others* reported as *2008 (1) RCR (Civil) 225*, judgment of the Hon'ble Supreme Court of India in the case of *Pramod Kumar Jaiswal and others Versus Bibi*



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Husn Bano & Ors. reported as 2005(5) SCC 492 and Jaspal Kaur Cheema and Anr. Versus M/s Industrial Trade Links and Ors. reported as 2017(8) SCC 592.

7. It is further submitted that even the property, which has been allegedly purchased by the respondents does not correspond with the property in question and at any rate, the said purchase is hit by the principle of *lis pendens* and would not give any right to the purchaser of the property so as to retain possession and to stall the eviction proceedings. It is submitted that thus, even if the objections by the judgment debtors are taken on its face value, then also, they deserve to be dismissed summarily and by framing issues, the proceedings have been delayed endlessly.

ARGUMENTS ON BEHALF OF THE RESPONDENTS:

8. Learned counsel for the respondents, on the other hand, has submitted that the impugned order is in accordance with law and deserves to be upheld. It is submitted that the respondents, who are tenants in the premises, had subsequently purchased a part of the property vide registered sale deed dated 28.08.2023 from the co-owners Ashu Kumar and Krishan Mohan, who are the brothers of the husband of the petitioner. It is submitted that even an agreement to sell was entered into between the husband of the petitioner i.e. Parveen Kumar, Ashu Kumar and Rakesh Kumar-respondent No.2/JD No.2 on 11.01.2020 and since the husband of petitioner Parveen Kumar has backtracked from the said agreement, thus, the respondents are in the process of filing a suit for specific performance. It is



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submitted that in view of the subsequent events, the respondents have a better title than the petitioner and thus, have a right to retain possession of the property in question and thus, the Executing Court has rightly framed the issues. It is further submitted that it is the case of the respondents-objectors that on account of the agreement to sell dated 11.01.2020, petitioner's husband Parveen Kumar along with his brother Ashu Kumar had received an amount of ₹50 lakhs from the respondents.

ARGUMENTS ON BEHALF OF THE PETITIONER IN REBUTTAL:

9. Learned counsel for the petitioner has submitted that the facts which have been submitted on behalf of the respondents are incorrect and has further submitted that even if they are taken to be true on their face value, then also, the respondents are not entitled to object to the execution of the decree and cannot retain the possession of the premises in question.

ANALYSIS AND FINDINGS:

10. This Court has heard the learned counsel for the parties and has perused the paper book and finds that the revision petition is meritorious and the impugned order passed by the Executing Court is against law and deserves to be set aside for the reasons stated hereinafter.

11. As is apparent from the facts stated hereinabove, the order of eviction dated 17.02.2016 in the eviction petition filed by the petitioner against the respondents has attained finality. It is not disputed that there is no agreement, much less, sale deed executed by the petitioner in favour of the respondents and thus, the question of the right of the petitioner having



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been purchased by the respondents in the suit property does not arise. It is a matter of settled law that a landlord need not be the owner of the property. In the present case, the fact that Neelam Rani was the landlord is not disputed even before this Court and thus, the subsequent events which have been highlighted on behalf of the respondents would not come in the way of the petitioner from getting the judgment and decree dated 17.02.2016 executed against the respondents, who are admittedly tenants of the petitioner.

12. It would also be relevant to mention that the application filed for recalling the warrant of possession issued on 01.08.2024 and the objections raised by the respondents/judgment debtors were required to be summarily rejected in view of the order dated 01.08.2024 in which it was specifically stated that since no objections had been filed, thus, no further adjournment was required to be granted for the purpose of filing objections and thereafter warrants of possession of the suit property were issued. Admittedly, the said order dated 01.08.2024 which has been reproduced in the earlier part of the present order had not been challenged or set aside. The principle of *res judicata*/constructive *res judicata* also applies to orders passed at different stages in a proceeding. Once the Executing Court vide order dated 01.08.2024 had not given any further opportunity to the respondents/judgment debtors to file objections and had issued warrants of possession, then, the subsequent entertaining of the objections filed by the respondents was in violation of the said principle.



13. Further the objections raised by the respondents are frivolous and even if they are taken to be true on their face value, then also, they do not call for stalling the execution of the judgment passed in favour of the petitioner. It is the case of the respondents that they had purchased 1276/1046817 share in Khewat No.1838 out of total land measuring 41 *kanals 2 marlas*. The said purchase had been disputed by the petitioner in her reply (Annexure P-5) to the effect that the said purchase was not with respect to the rented property in question as the dimensions of the shop mentioned in the said sale deed are contrary to the dimensions of the demised premises. At any rate, even if the plea of the respondents to the effect that they have become co-sharers in the property in question by virtue of sale deed dated 28.08.2023, executed by two co-sharers i.e. Ashu Kumar and Krishan Mohan, is taken to be true, then also, as per settled law, they would not be entitled to retain possession of the premises in question. The coordinate Bench of this Court in the case of *Satish Kumar (supra)* while dealing with a similar case had observed that even in case half share in the premises had been sold to the judgment debtors by one of the co-sharers vide registered sale deed, then also, the tenancy right of the tenant could not merge with the ownership rights. It was further observed that the purchasers are under a legal obligation to first surrender the vacant possession of the premises and then seek separate remedy of partition. In the present case, it is not in dispute that there is no agreement or sale deed executed by the present petitioner and thus, even if the plea of the respondents that they had



become co-sharers in the property is taken on its face value, then also, in view of the law laid down in the abovesaid case, at best the respondents could file a suit for partition of the property after surrendering the possession, which the respondents had been enjoying as tenants of the petitioner.

14. In the case of *Mohan Lal (supra)*, a coordinate Bench of this Court had taken into consideration the law laid down by the Hon'ble Supreme Court in case of *T. Lakshmi pathi and others Versus Nithyananda Reddy and others* reported as *2003 (2) RCR (Rent) 117* in which case, a joint property was owned by seven co-owners and five of the said co-owners had sold their undivided shares to the tenants, yet it was observed by the Hon'ble Supreme Court that the tenants would acquire only a partial interest in the property and their tenancy will not merge with ownership and thus, they would be liable to be evicted being tenants even though they had acquired partial interest in the property. In the case of *Mohan Lal (supra)*, the coordinate Bench had also relied upon the judgment of the Hon'ble Supreme Court in *Sant Lal Jain Versus Avtar Singh* reported as *AIR 1985 SC 875* in which it was held that a licensee is bound to hand over the possession to the landlord on termination of the licence and cannot retain possession on the basis of title alleged to have been subsequently acquired by him. The judgment in the case of *Mohan Lal (supra)* has been upheld by the Hon'ble Supreme Court in **SLP(C) Nos.4111-4112/2008** decided on 17.01.2017. In the present case, it would be relevant to note that even the



eviction order has attained finality.

15. Further, the Hon'ble Supreme Court in the case of *Pramod Kumar Jaiswal and others (supra)* had observed as under:

“.....On taking an assignment from some of the co-owner landlords, the interests of the lessee and the lessor in the whole of the property do not become vested at the same time in one person in the same right. Therefore, a lessee who has taken assignment of the rights of a co-owner lessor, cannot successfully raise the plea of determination of tenancy on the ground of merger of his lessee's estate in that of the estate of the landlord. It is, thus, clear that there is no substance in the contention of the learned counsel for the appellants that in the case on hand, it should have been held that the tenancy stood determined and the application of the landlord for a direction to the tenant to deposit the rent in arrears should have been dismissed. The position of the appellants as tenants continue and they are bound to comply with the requirements of the Rent Control Act under which the order for deposit has been passed against them. The High Court has rightly dismissed the revision. 35. Thus, there is no merit in this appeal. Confirming the order of the High Court the appeal is dismissed. Appeal dismissed.”

The law laid down in the abovesaid judgment also fully supports the case of the petitioner.

16. In the case of *Jaspal Kaur Cheema and another (supra)*, the Hon'ble Supreme Court, after taking into consideration the principle of



estoppel, had observed as under:-

“11. This Section deals with estoppel of a tenant founded upon contract between the tenant and his landlord. It enumerates the principle of estoppel which is merely an extension of principle that no person is allowed to approbate and reprobate at the same time. The tenant who has been let into possession cannot deny his landlord’s title. In Mt. Bilas Kunwar v. Desraj Ranjit Singh and Ors. AIR 1915 Privy Council 96, it was held that a tenant who has been let into possession cannot deny his landlord’s title, however, defective it may be, so long as he has not openly restored possession by surrender to his landlord.

12. The principle of estoppel arising from contract of tenancy is based upon the principle of law and justice that a tenant who could not have got possession but for a contract of tenancy admitting the right of the landlord, should not be allowed to put his landlord in some inequitable situation taking undue advantage of the position that he got and any probable defect in the title of his landlord. This Court in Bansraj Laltaprasad Mishra v. Stanley Parker Jones 2006 (2) RCR (Civil) 38: 2006(1) RCR (Rent) 253 : (2006) 3 SCC 91 has enumerated the policy underlying Section 116 as follows:

“The underlying policy of Section 116 is that where a person has been brought into possession as a tenant by the landlord and if that tenant is permitted to question the title of the landlord at the time of the settlement then that will give rise to extreme confusion in the matter of relationship of the landlord and tenant and so the equitable principle of estoppel has been incorporated by the legislature in the said section. The principle of estoppel arising from the



contract of tenancy is based upon a healthy and salutary principle of law and justice that a tenant who could not have got possession but for his contract of tenancy admitting the right of the landlord should not be allowed to launch his landlord in some inequitable situation taking undue advantage of the possession that he got and any probable defect in the title of his landlord. It is on account of such a contract of tenancy and as a result of the tenant's entry into possession on the admission of the landlord's title that the principle of estoppel is attracted. Section 116 enumerates the principle of estoppel which is merely an extension of the principle that no person is allowed to approbate and reprobate at the same time."

17. From the abovesaid facts and circumstances, it is apparent that even in case the primary plea raised on behalf of the objectors with respect to the purchase of a part of the premises from other co-sharers is taken on face value, then also, the respondents-judgment debtors cannot hold on to the possession of the property and cannot stall the execution proceedings. Even the argument with respect to there being an agreement to sell dated 11.01.2020 executed by Parveen Kumar and Ashu Kumar in favour of respondent No.2/JD No.2 regarding which respondent No.2 has allegedly decided to file a suit for specific performance would not in any way call for upholding of the impugned order. It is reiterated that the said agreement is not with the petitioner, who is the admitted landlord and has an eviction order in her favour. Further it is a matter of settled law that mere agreement



to sell in favour of a party does not give any right to the said party in the property and the only right that the respondents have is to seek specific performance of the said agreement. It is not disputed before this Court that although the alleged agreement had been entered into in the year 2020 but till date no suit for specific performance has been filed.

18. By virtue of the impugned order, the Executing Court has framed three issues. As far as issue No.3 to the effect, “whether the decree holder has executed the sale deed No.2971 dated 28.08.2023” is concerned, it would be relevant to note that it was not the case of any of the parties that the said sale deed was executed by the decree holder/petitioner, yet strangely the said issue has been framed. Before this Court, it is not disputed that the decree holder has not executed any agreement to sell in favour of the judgment debtors and that the sale deed dated 28.08.2023 does not contain the signatures of the petitioner. With respect to issue No.1, it would be relevant to note that by virtue of the sale deed dated 28.08.2023, as per the best case of the respondents-judgment debtors they have become co-sharers in the property in question but it is not their case that they had purchased the entire property, much less, from the present petitioner. As has been detailed hereinabove, even in case the alleged sale deed is taken into consideration, then also, the respondents would have no right to object to the execution proceedings and thus, the question of framing issues and seeking evidence on the same is a completely futile exercise and would result in delaying the execution proceedings endlessly. Issue No.2 with



respect to recalling the warrant of possession would only arise if there was some substance in issues No.1 and 3 and since there is no substance in issues No.1 and 3, thus, framing of issue No.2 is also an exercise in futility. A coordinate Bench of this Court in the case of ***Bikram Singh Versus Surjit Singh and others*** reported as ***2004(4) RCR (Civil) 422*** had observed that it is the duty of the Executing Court to execute the decree and merely because frivolous objections are filed with a view to delay the decree, it is not necessary for the Court to frame issues and grant opportunity to the parties to lead evidence. It was further observed that even in case the objections have been filed by a third party and not by the JD, then also, the issues would not be framed by the Executing Court in a routine manner. In the present case, the said principle of law has not been followed and the Executing Court has framed the issues in a casual manner. In case the impugned order is not set aside, the same would endlessly delay the execution proceedings, which is against the mandate of law laid down by the Hon'ble Supreme Court in the case titled as ***Periyammal (Dead) through LRs and Ors. Versus Rajamani and Anr.*** reported as 2025 SCC Online SC 507, in which the Executing Courts have been directed to dispose of the execution proceedings within six months; and would also permit the respondents to retain illegal possession of the property in question in spite of a final eviction order/decreed dated 17.02.2016 in favour of the petitioner.

19. Keeping in view the abovesaid facts and circumstances, the impugned order dated 07.05.2025 is set aside and the application dated



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23.08.2024 (Annexure P-4) filed by the respondents/judgment debtors is dismissed and the Executing Court is directed to proceed further in the case to execute the judgment and decree dated 17.02.2016, in accordance with law.

November 17th, 2025
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes