



CR-5761-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-5761-2025 (O&M)

Date of Decision:25.08.2025

Manjot Singh

... Petitioner

Versus

Pawan Kumar and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Mayur Karkra, Advocate
Mr. Abhishek Malik, Advocate
Mr. Abhishek Chhoker, Advocate
for the petitioner.

AMARINDER SINGH GREWAL, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India praying for setting aside of the impugned order dated 29.05.2025 (Annexure P-15) passed in EXE-495-2024 titled as *Pawan Kumar Vs. Naresh Kumar Sharma* whereby the objections filed by the petitioner, being third party, have been dismissed without taking into account the provisions of Order 21 Rules 97 & 101 CPC.

2. In brief, the facts, as culled out from the petition, are that contesting respondents had filed a petition under Section 20 of the Punjab Rent Act, 1995 (for short Rent Act) for ejection of the respondent from shop i.e. part of House No.162-2 & 162-2/B known as H.N. Collection, opposite Chiranjee Ashram, Darijan Wali Gali, Patiala and to hand over the possession of the tenanted premises as described in the site plan. In the said petition, while deciding the application for determination of arrears of rent, the learned Rent Controller assessed the interim rent under Section 25 read with Section 8 of the Rent Act at Rs.2,12,482/- towards arrears and charges upto 30.04.2024, directing the *pro forma* respondent-tenant to pay the same by 01.07.2024 and further directed him to continue paying rent @



Rs.8,840/- per month during the pendency of the eviction petition without fail. On the very same day i.e. 01.07.2024, during the course of proceedings, learned counsel for the *pro forma* respondent suffered a statement to the effect that as per the information received from his client, the *pro forma* respondent has already vacated the premises in dispute on that very day and handed over the possession to one Manjot Singh son of Harjit Singh i.e. petitioner herein, resident of House No.36-G, Bharpur Garden, Patiala, who is the nephew of the original owner of the shop in question, which was made part of zimni order dated 01.07.2024. On 03.07.2024, the ejectment petition was allowed by the learned Rent Controller and directed eviction of the *pro forma* respondent from the tenanted premises. Since no appeal was filed by the *pro forma* respondent, respondents No.1 and 2-decree holders filed execution petition before the learned Civil Judge, Junior Division, Patiala (hereinafter referred to as the Executing Court) seeking warrant of possession and recovery of arrears of rent as land revenue as well as by way of arrest. Objections were filed by the *pro forma* respondent to the said petition taking up the plea of non-existence of landlord-tenant relationship as he had already handed over possession of the tenant premises to the petitioner-Manjot Singh. Reply to said objections was filed by contesting respondents No.1 and 2 and vide order dated 29.11.2024, the Executing Court has dismissed the same. Thereafter, the petitioner had filed objections being third party on the ground that he is lawful owner in possession of the demised premises as in family settlement, demised premises came to his share and further the decree is not executable against him as he was neither a party to the original suit nor a judgment debtor. Reply to the said objections was filed by contesting respondents No.1 and 2 and vide



impugned order dated 29.05.2025, the Executing Court dismissed the same. Hence, the revision petition.

3. Learned counsel for the petitioner contends that the learned Executing Court has dismissed the third party objections of the petitioner raised under Order 21 Rule 97 CPC without adhering to the procedure as envisaged under Order 21 Rule 101 CPC whereby all questions pertaining to the right, title and interest in the property arising between the parties to a proceeding on an application under Rule 97 or Rule 99 of Order 21 CPC are necessary to be determined by the Court dealing with the application and not in a separate suit. In support of his contention, he relies upon the judgment passed by a Coordinate Bench of this Court in ***Sukhdev Singh Vs. Anita Rani and others*** passed in ESA-8-2024 decided on 20.05.2025. Further reliance is placed upon the judgment passed by the Hon'ble Supreme Court in ***Shreenath Vs. Rajesh (1998) 4 SCC 543*** to contend that a third person, who is in possession of property and claims independent right as tenant, though was not a party to the suit for possession, such a person can resist the decree by seeking adjudication of his objections under Order 21 Rule 97 CPC and the Executing Court has to adjudicate the objections finally under Rule 101. Such a party cannot be forced to file a fresh suit.

4. Heard.

5. Admittedly, the petitioner was not a party to the eviction proceedings before the learned Rent Controller but he was handed over possession of the tenanted premises by the original tenant i.e. *pro forma* respondent during the pendency of eviction proceedings itself. Till date, possession rests with him. Now the issue for determination before this Court is whether objections filed to execution of decree for possession by a third party, being taken over the possession



from the original tenant during the pendency of eviction proceedings, who has never been dispossessed from tenanted premises, are maintainable or not and whether the Executing Court was in error in not resorting to the provisions of Order 21 Rules 97 & 101 CPC as contended by the petitioner?

6. Before advertng to the aforesaid issues, it is apt to reproduce relevant provisions of Order 21 CPC, which deal with execution of decrees and orders:-

“Order 21 — Execution of decrees and orders

97. Resistance or obstruction to possession of immovable property.—

(1) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction.

(2) Where any application is made under sub-rule (1), the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

98. Orders after adjudication.—(1) Upon the determination of the questions referred to in Rule 101, the Court shall, in accordance with such determination and subject to the provisions of sub-rule (2)—

(a) make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or

(b) pass such other order as, in the circumstances of the case, it may deem fit.

(2) Where, upon such determination, the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation or on his behalf, or by any transferee, where such transfer was made during the pendency of the suit or execution proceeding, it shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the



Court may also, at the instance of the applicant, order the judgment-debtor, or any person acting at his instigation or on his behalf, to be detained in the civil prison for a term which may extend to thirty days.

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.*

100. Order to be passed upon application complaining of dispossession.—*Upon the determination of the questions referred to in Rule 101, the Court shall, in accordance with such determination—*

(a) *make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or*

(b) *pass such other order as, in the circumstances of the case, it may deem fit.*

101. Question to be determined.—*All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 or Rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application, and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.*

102. Rules not applicable to transferee pendente lite.—*Nothing in Rules 98 and 100 shall apply to resistance or obstruction in execution of a decree for the possession of immovable property by a person to whom the judgment-debtor has transferred the property after the*



institution of the suit in which the decree was passed or to the dispossession of any such person.

Explanation.—In this rule, “transfer” includes a transfer by operation of law.”

7. A bare reading of provisions of Order 21 Rule 97 CPC reveals that when resistance or obstruction to possession of immovable property is made by “any person” in obtaining possession of the property against the decree-holder, the “decree-holder” has to make an application complaining about such resistance or obstruction. On the other hand, Rule 99 of Order 21 CPC deals with the right of “any person” other than the judgment-debtor, who is dispossessed by holder of a decree for possession of such property or in case where such property is sold in furtherance of execution of a decree. The said provision vests “any person” with a right to make an application complaining about such dispossession of immovable property in the manner prescribed above, irrespective of pendency of any execution proceedings. Meaning thereby, the application under Order 21 Rule 99 CPC is an independent application and filing of such application is not dependent upon pendency of any execution proceedings. Rules 98 and Rule 100 deal with the power of the Court to pass appropriate orders upon an application preferred under Rule 97 and Rule 99 respectively. In so far as Rule 101 is concerned, it confers jurisdiction on the Court as well as casts an obligation to determine the questions relating to right, title or interest in the property, if any, arising between parties on an application made by the person concerned under Rule 97 or Rule 99 in the same proceedings for adjudication and not in a separate suit. Lastly, Rule 102 clarifies that Rule 98 and Rule 100 shall not apply in a case where resistance or obstruction in execution of a decree for the possession of immovable property is offered by “transferee pendente lite” i.e. the person to whom the property is transferred by the



judgment-debtor after institution of the suit in which the decree sought to be executed was passed.

8. Under Order 21 Rule 97 CPC, it is only the “decree-holder” who is entitled to make an application where he is offered resistance or obstruction by “any person”. Admittedly, the petitioner is not the decree holder. Rather, his claim is that he obtained possession from the tenant during the pendency of eviction proceedings before the learned Rent Controller and further he proclaims himself to be owner of the property as per alleged family settlement. Therefore, the argument raised by learned counsel for the petitioner that the Executing Court has not resorted to provisions of Order 21 Rule 97 read with Rule 101 CPC while dismissing the objections filed by the petitioner vide impugned order dated 29.05.2025 has no merit. The judgment relied upon by learned counsel for the petitioner in the case of *Sukhdev Singh’s case* (supra) is not applicable to the facts of the present case, as in the said case, appellant therein was a decree-holder for specific performance of the agreement to sell against judgement debtor. In the execution petition, third party objections were filed by one Anita, mother of judgment debtor, claiming that the judgment debtor was not the owner of the property. However, the execution petition filed by the decree-holder was dismissed while entertaining the objections filed by the third party and, therefore, it was the decree-holder, who was complaining that provisions of Order 21 Rule 101 CPC were not adhered to. It was in this eventuality, it was held by a Coordinate Bench of this Court that third party objections are required to be decided like a suit. Further the judgment relied upon in the case of *Shreenath* (supra) is distinguishable on facts, as in the said case, the third party, who resisted the execution of decree was tenant even before the mortgage was made by the



mortgagor and mortgagee and, therefore, it was asserted that only symbolic possession can be given to the decree holder. Meaning thereby, they were not deriving any right and title through the judgment debtor, as it was a case of redemption of mortgage. However, in the present case, firstly, the original tenant/judgment debtor in the eviction proceedings had admitted the relationship of tenant and landlord and secondly, the tenant handed over possession to the petitioner during the pendency of aforesaid eviction proceedings and duly suffered a statement in this regard before the learned Rent Controller, thus, it is hard to believe that the petitioner-third party was not aware of the pendency of eviction proceedings.

9. In the judgment passed by the Hon'ble Supreme Court in *Sriram Housing Finance and Investment India Limited Vs. Omesh Mishra Memorial Charitable Trust (2022) 15 SCC 176* where the tenant failed to vacate the suit property on expiry of lease period, a suit for possession/recovery of arrears of rent/damage/mesne profits and mandatory injunction was filed by the owner. The owner bequeathed the suit property to a Trust by Will, validity of which was admitted by legal heirs and thus, Trust became a co-plaintiff in the suit. The suit was decreed in favour of plaintiffs, however, one of the legal heirs transferred disputed suit property to a third party-company (appellant before the Hon'ble Supreme Court) during pendency of execution petition. The said company even took possession directly from the judgment debtor and subsequently, filed an application raising objection to execution petition. Dealing with the said issue, which is similar to the controversy in hand, the Hon'ble Supreme Court has held as under:-

“24. On conjoint reading of the aforesaid provisions, it can be observed that under Rule 97, it is only the “decree-holder” who is



entitled to make an application in case where he is offered resistance or obstruction by “any person”. In the present case, as admitted by the appellant itself, it is a bona fide purchaser of the property and not the “decree-holder”. As available from the material placed on record, it is the respondent Trust along with legal heirs of late N.D. Mishra, who are the decree-holders and not the appellant. Therefore, it is obvious that the appellant cannot take shelter of Rule 97 as stated above to raise objections against execution of decree passed in favour of the respondent. Further, Rule 99 pertains to making a complaint to the Court against “dispossession” of the immovable property by the person in “possession” of the property by the holder of a decree or purchaser thereof.

25. It is factually not in dispute that the appellant purchased the said property from Mr. Yogesh Mishra vide sale deed dated 12-4-2004 and has been in vacant and physical possession of the property since then. Had it been the case that the appellant was dispossessed by the respondent Trust in execution of decree dated 2-9-2003, the appellant would have been well within the ambit of Rule 99 to make an application seeking appropriate relief to be put back in possession. On the contrary, the appellant in the instant case was never dispossessed from the property in question and till date, as contended and unrefuted, the possession of same rests with the appellant. Considering the aforesaid, the appellant cannot be said to be entitled to make an application under Rule 99 raising objections in execution proceedings since he has never been dispossessed as required under Rule 99.

26. Now, as stated above, applications under Rule 97 and Rule 99 are subject to Rule 101 which provides for determination of questions relating to disputes as to right, title or interest in the property arising between the parties to the proceedings or their representatives on an application made under Rule 97 or Rule 99. Effectively, the said Rule does away with the requirement of filing of fresh suit for adjudication of disputes as mentioned above. Now, in the present case, Order 21 Rule 101 has no applicability as the appellant is neither entitled to



make an application under Rule 97 nor Rule 99 for the reasons stated above. Accordingly, we find no substance in the argument raised by the learned counsel for the appellant.

27. In such circumstances, the executing court had no occasion to frame issues and give direction to parties to lead evidence on objections raised by the appellant. By doing so, the executing court transgressed the scope of Order 21 Rule 97 and Rule 99. Therefore, in our considered view, the High Court has rightly set aside the order of the trial court entertaining the objections filed by the appellant under Order 21 Rule 97 to Rule 102.”

10. There is no dispute that Order 21, Rule 97 CPC clearly envisages that “any person” even including the judgment-debtor, irrespective whether he claims derivative title from the judgment-debtor or set up his own right, title or interest *de hors* the judgment-debtor resists execution of a decree, then the court in addition to the power under Rule 35(3) has been empowered to conduct an enquiry whether the obstruction by that person in obtaining possession of immovable property was legal or not. However, it is the decree-holder, who gets a right under Rule 97 CPC to make an application against third parties to have his obstruction removed and an enquiry thereon could be done, meaning thereby, such obstruction or resistance at the instance of third party furnishes a cause of action to the decree-holder to make an application for removal of the obstruction or resistance and upon such application, all questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 CPC, shall be determined by the Court dealing with the application. In such an eventuality, after hearing the decree-holder and the obstructionist, the order passed by the Court would be treated as a decree under Order 21 Rule 101 CPC and no separate suit would lie against



such order, meaning thereby, the only remedy would be to prefer an appeal before the appropriate Appellate Court against such deemed decree.

11. As an upshot of above, this Court is of the considered opinion that once resistance is offered by a purported stranger to the decree, which comes to be noted by the decree-holder, the remedy under Order 21, Rule 97, sub-rule (1) is available only to the decree-holder against such an obstructionist and as a consequent thereto, other provisions are bound to follow. Furthermore, where third party objections are filed, it is not mandatory to lead evidence in every case and the Executing Court has to decide the same on a case to case basis. The Executing Court can make the adjudication on admitted facts or even on the averments made by the resistor and only if it deems necessary, can direct the parties to adduce evidence for such determination. The objections filed by the original tenant-judgment debtor were already dismissed by the Executing Court and thereafter, third party objections were filed by the petitioner by merely asserting that the shop in question came to his share in a family settlement. A perusal of the objections shows that no such family settlement was attached therewith and in the absence of any documentary proof qua the same, the learned Executing Court has rightly held that third party objections were filed just to delay the execution proceedings.

12. In view of the above, this Court does not find any ground to interfere with the impugned order dated 29.05.2025 passed by the learned Executing Court. Resultantly, the instant petition stands dismissed.

13. Pending misc. application(s), if any, also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

August 25, 2025

Pankaj*	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No