



2025:DHC:7088



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 14.08.2025+ **C.R.P. 229/2025 & CM APPL. 46418-46420/2025**

MASIHI SAHITYA SANSTHAPetitioner

Through: Mr. Sanjay Dewan, Sr. Adv. with Mr.
M. Qayam-Ud-Din, Ms. Unzila
Fatima, Mr. Anish Dewan, Ms.
Garima Verma, Ms. Kashish Jain and
Ms. Vedica Gupta, Advs.

versus

ABSTERGE REAL ESTATE PVT. LTD.Respondent

Through: Mr. Rajesh Yadav, Sr. Adv. with Mr.
Akshay Chandra, Mr. Aditya
Chandra, Mr. Vikas Sharma and Mr.
Utkarsh Bhanu, Advs.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Article 227 of the Constitution of India, 1950 impugning an order dated 26.07.2025 passed by the learned ACJ/CCJ/ARC, NDD, Patiala House Courts, New Delhi [hereinafter referred to as "Impugned Order"] in Execution proceedings No. Ex.344/2025 captioned *Absterge Real Estate Pvt Ltd v. Masihi Sahitya Sanstha*.

2. The matter has been received on transfer from the Roster Bench after directions were passed for conversion of these Petitioners into Civil Revision Petitions.

3. By way of the Impugned Order, two Applications have been decided. The first Application is an Application under Section 151 of the Code of



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Civil Procedure, 1908 [hereinafter referred to as “CPC”] in RC ARC No. 14/2023 captioned ***Absterge Real Estate Pvt. Ltd. v. Masihi Sahitya Sansthan*** seeking recall and to set aside the judgment and order dated 24.12.2024 passed by the Court of the learned Rent Controller [hereinafter referred to as “24.12.2024 Judgment”] in the following manner:

“(i) the Judgement and order dated 24.12.2024 be set aside by this Hon'ble Court by recalling the said. order by this Hon'ble Court and the Respondent may be granted unconditional leave to contest the Eviction Petition of the Petitioner...”

3.1 The Second Application is an Application/Objections filed under Order XXI Rule 58 read with Section 47 and 151 of the CPC filed in Execution proceedings No. 344/2025 captioned ***Absterge Real Estate Pvt. Ltd. v. Mashi Sahitya***. The prayers in this Application/Objections [hereinafter referred to as "Second Application"] are almost similar to the Application filed to the First Application and are set out below:

“(i) That Judgement and order dated 24.12.2024 be ignored by this Hon'ble Court as a nullity and the present execution be dismissed...”

4. As stated above, the Impugned Order is a composite order which has disposed of the First Application [which was filed before the learned Rent Controller] and has finally disposed of the execution proceedings and also dismissed the objections that were filed by the Petitioner/Judgment Debtor.

4.1 The challenge in respect of the 24.12.2024 Judgment is in relation to the premises i.e. commercial flat/floor on the front portion of first floor (facing Janpath), constructed at Plot no.33, Block no.134, also known as 70, First Floor, Janpath, New Delhi-110001 [hereinafter referred to as “subject premises”].



5. Although, there are two separate Petitions filed challenging the same order, the challenge in the two Petitions is slightly different. C.R.P. 229/2025 seeks to challenge the order in the First Application praying for recall of the 24.12.2024 Judgment, while C.R.P. 230/2025 is a challenge to the dismissal of the Second Application/Objections.

6. The Coordinate Bench of this Court has on 31.07.2025 passed an order directing that the Petitions be converted to Civil Revision Petitions. The relevant extract is below:

*"1. After hearing arguments for some time, learned Senior counsel for petitioner, on instructions, submits that in view of the **Mohd. Arshad and Others vs. Syed Mohd Yahaya Nizami**:2024 SCC OnLine Del 7173, the present petitions which have been filed under Article 227 of Constitution of India, be rather converted into Civil Revision Petitions under Section 115 CPC.*

2. In view of the above, while directing that the present petitions be converted into Revision Petitions under Section 115 CPC, the same, subject to the order of the Hon'ble the Chief Justice, be placed before the learned Roster Bench dealing with such Revision Petitions on 01.08.2025."

7. Learned Senior Counsel for the Petitioner/Judgment Debtor submits that after filing of their Petitions, in pursuance of the execution proceedings, the possession of the premises in issue have been taken over by the Respondent/Decree Holder on 31.07.2025. This position is not disputed by the Respondent.

8. At the outset, learned Senior Counsel for the Respondent raises a preliminary objection. He submits that so far as concerns the challenge to the 24.12.2024 judgment passed by the learned Rent Controller in Eviction proceedings filed under Section 14(1)(e) of the Delhi Rent Control Act,



1958 [hereinafter referred to as “DRC Act”] by the Respondent, the same is only amenable to challenge before this Court under Section 25B(8) of the DRC Act. He further submits that this challenge is already pending before a Coordinate Bench of this Court in RC. REV. 83/2025 captioned ***Masihi Sahitya Sanstha v. Absterge Real Estate Pvt. Ltd.*** This position is also not disputed by the learned Senior Counsel for the Petitioner.

8.1 Learned Senior Counsel for the Respondent further submits that these proceedings are pending before the Coordinate Bench of this Court and are next listed for hearing on 01.09.2025. He draws attention of the Court to the order passed in RC. REV. 83/2025, more specifically orders dated 07.03.2025, 11.03.2025, 03.04.2025, 09.04.2025, 30.04.2025, 07.05.2025, 29.05.2025 and 07.07.2025 to submit that the matter has been heard by the Roster Bench for Rent Revision Petitions on multiple dates but no interim protection has been granted.

8.2 It is apposite to set out the relevant extract of the orders dated 30.04.2025, 07.05.2025 and 07.07.2025 passed by the Coordinate Bench in RC.REV. 83/2025 captioned ***Masihi Sahitya Sanstha v. Absterge Real Estate Pvt. Ltd.*** which sets this out below:

“30.04.2025

Mr. Rao’s primary ground of challenge to the impugned eviction order dated 24.12.2024 is that the sale deed executed by the previous lessor in favour of the respondent is invalid in light of the provisions of the Indian Trusts Act, 1882; and that the petitioner has never attorned to the respondent.

On the other hand, Mr. Yadav argues, that in view of section 109 of the Transfer of Property Act 1882 it has been clearly laid-down that upon transfer of the property, the transferee acquires all the rights of the transferor and it is not necessary that a lessee must attorn to the transferee. In this 07.05.2025behalf, learned senior counsel has drawn the court’s



attention to the decision of the Supreme Court in *Ambica Prasad vs. Mohd. Alam & Anr.*

Furthermore, it transpires that the present petitioner has already fixed a suit bearing CS(OS) No. 230/2025 titled *M/s. Masihi Sahitya Sanstha vs. Mr. Nikhil Sen (Claimed Trustee of Vidyawati Khanna Trust) & Ors.* challenging the aforementioned sale deed, which suit is pending before a Co-ordinate Bench of this court. Mr. Yadav accordingly submits, that until the petitioner succeeds in challenging the sale deed by way of the civil suit, the sale deed must be taken to be valid; and therefore, the impugned eviction order does not suffer from any error suffers within the scope of section 25-B(8) of the Delhi Rent Control Act, 1958 ('DRC Act').

In view of what has been transpired during the course of today's hearing, Mr. Rao seeks time to take instructions as to which of the 02 proceedings namely the present revision petition or the said civil suit, the petitioner would wish to pursue.

07.05.2025

"...

RC.REV. 83/2025

Re-notify for hearing on 01st September 2025.

It is made clear that there is no stay of execution of the impugned order dated 24.12.2024."

07.07.2025

"...6. As referred-to in order dated 30.04.2025, the foundational challenge to the eviction order, namely that the sale deed executed by the previous lessor in favour of the respondent is invalid in light of the provisions of **the Indian Trusts Act, 1882 is pending adjudication in CS(OS) No. 230/2025 pending before a Co-ordinate Bench of this court. If the petitioner prevails in that suit, they may be able to seek restitution of possession of the subject premises.**"

[Emphasis supplied]

9. In addition, it is contended that the subject matter of the Second Application/Objections that has been filed before the learned Executing Court also forms part of a challenge in a civil suit before this Court, being CS (OS) 230/2025 captioned *M/s Masihi Sahitya Sanstha v. Mr. Nikhil Sen & Ors.* It is further contended that even the Coordinate Bench hearing this suit has not deemed it apposite to grant interim relief to the Petitioner



and an Application under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC wherein a similar prayer for orders against dispossession was made, which was dismissed by the order dated 16.07.2025. Reliance is placed upon the relevant extract of the order dated 16.07.2025 passed in CS (OS) 230/2025 below:

“1. The plaintiff, vide the instant application has made the following prayers:-

*“(a) Pass an ex-parte ad interim-injunction restraining the **Defendants from dispossessing the Plaintiff from the suit property being the entire first floor 70 Janpath, New Delhi-110001** in view of the pendency of the declaration of above sale deed dated 21.03.2018 registered vide Registration No. 3270, Book No. 1, Volume No. 6659 at pages No. 137 to 150 on 16.3.2018 with the Sub Registrar VII, New Delhi **and above order dated 24.12.2024 in false and fabricated eviction petition RC ARC 14/23, which was allowed by the Hon’ble Addl. Rent Controller New Delhi District, Delhi as a nullity and not binding on the Plaintiff and Plaintiffs possession of the suit property as tenant under Defendant No 1 subsists and continues to be valid and in accordance with law; and (b) Restrain the Defendant from creating any third-party interest of any kind whatsoever qua the suit property being the entire first floor 70 Janpath, New Delhi-110001 during the pendency of the present case.***

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40. In view of the foregoing discussion, the application for interim injunction under Order XXXIX Rules 1 and 2 of the CPC, as well as the application under Order VII Rule 11 read with Order XII Rule 6 of the CPC for rejection of the plaint and judgment on admission, stand dismissed.”

[Emphasis supplied]

9.1 Learned Senior Counsel for the Respondent has laid emphasis on the fact that even the proceedings in the Civil Suit CS(OS) 230/2025 captioned ***M/s. Masihi Sahitya Sanstha v. Mr. Nikhil Sen (Claimed Trustee of Vidyawati Khanna Trust) & Ors.*** relate to the subject premises.

10. As stated above, the order under challenge in the present Petition



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emanates from an Application filed in Eviction Petition in RC ARC No. 14/2023 captioned *Absterge Real Estate Pvt. Ltd. v. Masihi Sahitya Sanstha* which has already been decided by the 24.12.2024 Judgment. The Application filed before the Rent Controller is in relation to the subject premises and prays for the recall of the 24.12.2024 Judgment and permission to contest the leave to defend Application before the learned Trial Court.

11. The challenge seeking recall of the 24.12.2024 Judgment, is not maintainable before this Court. It is settled law that in terms of Section 25-B(8) of the DRC Act, all judgments passed by a Rent Controller in a Petition under Section 14(1)(e) of the DRC Act are only amenable to the jurisdiction of this Court under Section 25B(8) of the DRC Act.

12. This Court has in *New Airways Travels Pvt. Ltd V, S.K. Gupta & Anr*¹ in RC.REV. 50/2021 while relying on the judgment of the Supreme Court in *Prithipal Singh v. Satpal Singh*², has held that Chapter IIIA of the DRC Act is a complete code in itself. The provisions of Section 25B of the DRC Act can only be exercised in the circumstances as are set out in this Section. Sub-Section (1) of Section 25B of the DRC Act limits the adjudication under these provisions to orders passed by the learned Trial Court in Petitions under Sections 14(1)(e), 14A, 14B, 14C or 14D of the DRC Act, only Petitions/Applications filed under these provisions for the recovery of premises, are to be dealt with under Chapter IIIA of the Act i.e., Section 25B of the DRC Act.

12.1 Section 25B(8) of the DRC Act sets out that the orders passed

¹ 2025 SCC Online Del 1149

² (2010) 2 SCC 15



under this Section are not amenable to an appeal, however, the High Court may satisfy itself on an order passed under Section 25B of the DRC Act and for that purpose may examine the same. A Petition under Section 25B(8) of the DRC Act is thus restricted only to examination of an order passed by a Rent Controller under Section 14(1)(e), 14A, 14B, 14C or 14D of the DRC Act. It is apposite to extract the relevant provisions of Section 25B of the DRC Act, which are set out below:

“25B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.—

(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A [or under section 14B or under section 14C or under section 14D], shall be dealt with in accordance with the procedure specified in this section.

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(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.”

[Emphasis Supplied]

13. Concededly, this remedy has already been availed by the Petitioner by filing a Petition under Section 25B(8) of the DRC Act before this Court being the Revision Petition being 83/2025 captioned ***Masihi Sahitya Sanstha v. Absterge Real Estate Pvt. Ltd.*** is pending adjudication before a Coordinate Bench of this Court and as stated above, is listed for hearing before the Coordinate Bench on 01.09.2025. Thus, no further directions are requisite on this aspect of the matter.

14. Section 25B(9) of the DRC Act provides that an Application for



review of an order may be filed and the learned Rent Controller may exercise such powers, provided that the remedy under Section 25B(8) of the DRC Act has not been exercised in the following manner:

"25-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement

...

(9) Where no application has been made to the High Court on revision, the Controller may exercise the powers of review in accordance with the provisions of Order 47 of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

Emphasis Supplied]

14.1 As discussed above, since this remedy of Section 25B(8) of the DRC Act has already been exercised by the Petitioner against the 24.12.2024 Judgment by filed a RC.REV No. 83/2025 and a Civil Suit in relation to the subject property has also been filed by the Petitioner, both of which are pending before the Coordinate Benches of this Court, the challenge to the 24.12.2024 Judgment cannot be sustained in this Petition.

15. Accordingly, and for the reasons as stated above, the Petition is dismissed. All pending Applications stand closed. It is clarified that the order passed today will not preclude the Petitioner from raising all challenges before the Coordinate Bench of this Court in RC. REV. 83/2025. All rights and contentions of the parties are left open in this behalf.

16. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 14, 2025/r/pa