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

Date of Decision: 06.03.2025

\+ **RC.REV. 80/2025, CM APPL. 13304/2025 & CM APPL. 13305/2025**

MST. ZARINA BEGUM (SINCE DECEASED THROUGH LRS) .....Petitioner

Through: Mr. Jai Wadhwa & Mr. Ronak Karanpuria, Advocates with Petitioner in person.

versus

MST. NASEEMA BEGUM & ORS. .....Respondents

Through: None.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM APPL. 13304/2025 ***[Exemption]***

1. Allowed, subject to just exceptions.

2. The Application stands disposed of.

RC.REV. 80/2025 & CM APPL. 13305/2025 ***[for stay]***

3. The present Petition seeks to challenge an order dated 29.07.2024 [hereinafter referred to as "Impugned Order"] passed by the learned ARC-02, Central District, Tis Hazari Courts, Delhi. By the Impugned Order, the leave to defend Application filed by the Petitioner/tenant has been dismissed. The premises in issue is property bearing No.7503, Qasabpura, Delhi, Ward No.14, Delhi.

4. The matter was briefly heard by the Court on the last date of hearing and on that date, the learned Counsel for the Petitioner/tenant sought time to take instructions.

5. An opportunity was granted to the learned Counsel appearing for the Petitioner/tenant on the last date of hearing to take instructions to seek additional time to vacate.

6. The Petitioner/tenant is present in Court today. Learned Counsel for the Petitioner submits that the Petitioner does not wish for additional time to vacate.

7. The challenge by the learned Counsel for the Petitioner/tenant is on the ownership of the subject premises. It is submitted that the Respondents/landlords are not the owners of the subject premises, however, the owner is a third party.

8. It is also settled law that a title dispute cannot be adjudicated by this Court in rent revision petition. The Supreme Court in ***Kanaklata Das v. Naba Kumar Das***[1], has held that the question of title to a premises is not germane to the decision of the eviction suit.

> *"11.1. First, in an eviction suit filed by the plaintiff (landlord) against the defendant (tenant) under the State Rent Act, the landlord and tenant are the only necessary parties. In other words, in a tenancy suit, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant.*
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> *xxx xxx xxx xxx xxx*
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> ***11.3. Third, the question of title to the suit premises is not germane for the decision of the eviction suit. The reason being, if the landlord fails to prove his title to the suit premises but proves the existence of relationship of the landlord and tenant in relation to the suit premises and further proves existence of any ground on which the eviction is sought under the***

[1] (2018) 2 SCC 352

Tenancy Act, the eviction suit succeeds. *Conversely, if the landlord proves his title to the suit premises but fails to prove the existence of relationship of the landlord and tenant in relation to the suit premises, the eviction suit fails. (See Ranbir Singh v. Asharfi Lal [Ranbir Singh v. Asharfi Lal, (1995) 6 SCC 580] .)*

11.4. Fourth, the plaintiff being a dominus litis cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish unless such person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively. In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit. (See Ruma Chakraborty v. Sudha Rani Banerjee [Ruma Chakraborty v. Sudha Rani Banerjee, (2005) 8 SCC 140] .)

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11.6. Sixth, if there are co-owners or co-landlords of the suit premises then any co-owner or co-landlord can file a suit for eviction against the tenant. In other words, it is not necessary that all the owners/landlords should join in filing the eviction suit against the tenant. (See Kasthuri Radhakrishnan v. M. Chinniyan [Kasthuri Radhakrishnan v. M. Chinniyan, (2016) 3 SCC 296 : (2016) 2 SCC (Civ) 331] .)

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13. In our considered opinion, Respondent 1, who claims to be the co-sharer or/and co-owner with the plaintiff-appellants herein of the suit property is neither a necessary and nor a proper party in the eviction suit of the appellants against Respondents 2 to 5. In other words, such eviction suit can be decreed or dismissed on merits even without the impleadment of Respondent 1."

[Emphasis Supplied]

8.1 In addition, the Supreme Court in the case of ***Tribhuvanshankar vs Amrutlal***[2] has held that in case where a landlord initiates eviction proceedings against the tenant based on landlord-tenant relationship the scope of the proceedings are very limited and the question of title cannot be

[2] (2014) 2 SCC 788

adjudicated. It was further observed therein that all that the Court has to do is to satisfy itself that the person seeking eviction is a landlord, who has prima facie right to receive the rent of the property in question. In order to decide whether the denial of landlord's title by the tenant is bona fide the Court may have to go into tenant's contention on the issue but the Court is not to decide the question of title finally as the Court has to see whether the tenant's denial of title of the landlord is bona fide in the circumstances of the case. The relevant extract is set out below:

> *"28. At this juncture, we may fruitfully refer to the principles stated in Ranbir Singh v. Asharfi Lal [(1995) 6 SCC 580]. In the said case the Court was dealing with the case instituted by the landlord under the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 for eviction of the tenant who had disputed the title and the High Court had set aside the judgment and decree of the courts below and dismissed the suit of the plaintiff seeking eviction.* ***While adverting to the issue of title the Court in Ranbir Singh [(1995) 6 SCC 580] ruled that in a case where a plaintiff institutes a suit for eviction of his tenant based on the relationship of the landlord and tenant, the scope of the suit is very much limited in which a question of title cannot be gone into because the suit of the plaintiff would be dismissed even if he succeeds in proving his title but fails to establish the privity of contract of tenancy. In a suit for eviction based on such relationship the court has only to decide whether the defendant is the tenant of the plaintiff or not, though the question of title if disputed, may incidentally be gone into, in connection with the primary question for determining the main question about the relationship between the litigating parties.***
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> *29. In the said case the learned Judges referred to the authority in LIC v. India Automobiles & Co. [(1990) 4 SCC 286] wherein the Court had observed that: (Ranbir Singh case [(1995) 6 SCC 580] , SCC pp. 585-86, para 9)*
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> > *"9. … in a suit for eviction between the landlord and tenant, the Court will take only a prima facie decision on the collateral issue as to whether the applicant was landlord. If the Court finds existence of relationship of landlord and tenant between the parties it will have to pass a decree in accordance with law. It has been further observed therein that all that the Court has to do is to satisfy itself that the person seeking eviction is a landlord, who has prima facie right to receive the rent of the property in question. In order to decide whether denial of landlord's title by the tenant is bona fide the Court may have*

to go into tenant's contention on the issue but the Court is not to decide the question of title finally as the Court has to see whether the tenant's denial of title of the landlord is bona fide in the circumstances of the case."

[Emphasis Supplied]

9. On the aspect of challenge to the ownership raised by the Petitioner/tenant, in a petition under Section 14 (1) (e) of the Delhi Rent Control Act, 1958 [hereinafter referred to as "Act"], it is a settled law that all that a landlord has to prove is a better title than the tenant to seek eviction from the tenanted premises. The Supreme Court in the case of ***Swadesh Ranjan Sinha v. Haradeb Banerjee***[3], in the context of ownership in an eviction petition, has clarified that:

" 9. ***All that a plaintiff needs to prove is that he has a better title than the defendant. He has no burden to show that he has the best of all possible titles. His ownership is good against all the world except the true owner.*** *The rights of an owner are seldom absolute, and often are in many respects controlled and regulated by statute. The question, however, is whether he has a superior right or interest vis-a-vis the person challenging it…."*

[Emphasis supplied]

9.1 This Court while discussing the issue of ownership in a Petition filed under Section 25-B(8) of the Act in a case titled ***R.S. Chadha v. Thakur Dass***[4] has held that what a landlord has to prove is a better title than the tenant to seek his eviction for the tenanted premises. The Court relied on the judgment of the Supreme Court in the case of ***Shanti Sharma vs. Ved Prabha***[5] to hold that the term owner has to be understood in the context of the background of the law. The relevant extract reads as follows:

[3] (1991) 4 SCC 572
[4] 2024 SCC OnLine Del47
[5] (1987) 4 SCC 193

> *"10.1* ***It is settled law that what a landlord has to prove is a better title than the tenant to seek his eviction from a tenanted premises under Section 14(1)(e) of the Act. The Supreme Court in the case*** *of the Shanti Sharma v. Ved Prabha has held as follows:*
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> *xxx* *xxx* *xxx*
>
> *"14.* ***The word "owner" has not been defined in this Act and the word 'owner' has also not been defined in the Transfer of Property Act.*** *The contention of the learned Counsel for the appellant appears to be that ownership means absolute ownership in the land as well as of the structure standing thereupon. Ordinarily, the concept of ownership may be what is contended by the counsel for the appellant but in the modern context where it is more or less admitted that all lands belong to the State, the persons who hold properties will only be lessees or the persons holding the land on some term from the government or the authorities constituted by the State and* ***in this view of the matter it could not be thought of that the legislature when it used the term "owner" in the provision of Section 14(1)(e) it thought of ownership as absolute ownership****. It must be presumed that the concept of ownership only will be as it is understood at present.* ***It could not be doubted that the term "owner" has to be understood in the context of the background of the law and what is contemplated in the scheme of the Act.*** *This Act has been enacted for protection of the tenants. But at the same time it has provided that the landlord under certain circumstances will be entitled to eviction and bona fide requirement is one of such grounds on the basis of which landlords have been permitted to have eviction of a tenant.* ***In this context, the phrase "owner" thereof has to be understood, and it is clear that what is contemplated is that where the person builds up his property and lets out to the tenant and subsequently needs it for his own use, he should be entitled to an order or decree for eviction the only thing necessary for him to prove is bona fide requirement and that he is the owner thereof. In this context, what appears to be the meaning of the term "owner" is vis-a-vis the tenant i.e. the owner should be something more than the tenant.*** *Admittedly in these cases where the plot of land is taken on lease the structure is built by the landlord and admittedly he is the owner of the structure…."*
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> [Emphasis supplied]

10. In the present case, it is not the case of the Petitioner/tenant that he is an owner. He is admittedly a tenant. However, he submits that he is not the tenant of the Respondents/landlords. The relevant extract of the leave to

defend application filed by the Petitioner/tenant is reproduced below:

> *"3. That the deponent is entitled for leave to contest the eviction petition on the grounds given below amongst various other grounds:-*
>
> *a) That the eviction petition is not maintainable and the same is liable to be dismissed being bad for non-joinder of necessary parties. It is submitted that late* ***Shri Riazuddin Qureshi the original tenant died on 13th October, 1994 leaving behind him 4 sons namely*** *Shri Shizauddin, Mohd. Aquil, Mohd. Quamil, Mohd. Amil and one daughter Miss. Shahin* ***besides the respondent and all these persons/LRs become the tenant by operation of law after the death of Shri Riazuddin Qureshi*** *on the same terms and conditions in the tenanted premises having inherited the tenancy rights from the deceased tenant who dies as a contractual tenant…*
>
> *b)* ***That the petitioner is not the owner of the tenanted premises. The owners of the tenanted premises are Shri Javed, Shri Abid Mst. Rajis Begum Mst. Razia Begum and Mst. Rizwana Begum sons/ daughters of late Mohd. Ismail all R/o House No. 4932, Bara Tooti, Sadar Bazar, Delhi-6 by virtue of gift deed registered as document No. 2438 in Additional Book No.1 Volume No.2990 at pages 7174 dated 7-6-78 registered on 12.6.73 before the sub-registrar****. It is worthwhile to mention here that these persons have served a legal notice of demand also on late Shri Riazuddin Qureshi during his life time."*
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> [Emphasis supplied]

10.1 Thus, it is the contention of the Petitioner/tenant that he is the successor of the original owner, Mohd. Javed and a statutory tenant.

11. The learned Trial Court has in the Impugned Order given a finding that the Respondents/landlords are the owner of the property at 7503-7506 situated at Kasabpura, Sadar Bazar, Delhi-110006 of which the tenanted premises is a part and that the Respondents/landlords have received and acquired the property from their Uncle, late Mohd. Yasin, who expired in the year 1988 and the said Mohd. Yasin had no child and conveyed the said property by way of oral gift and a registered Will executed on 14.09.1976. It is contended that the property is in the name of the Petitioner in the records

of Municipal Corporation of Delhi and the Petitioner is paying a house tax in respect of the same.

12. The provisions of Section 116 of the Evidence Act, 1872/Section 122 of the Bharatiya Sakshya Adhiniyam, 2023 provides for an estoppel on a tenant to challenge the ownership of a landlord. Section 116 of the Evidence Act, 1872 is reproduced below:

> *"116. Estoppel of tenants and of licensee of person in possession. — No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession there of shall be permitted to deny that such person had a title to such possession at the time when such licence was given."*

12.1 The Supreme Court in the case of ***Bansraj Laltaprasad Mishra v. Stanley Parker Jones,***[6] has held that where a person has been brought into possession as a tenant by the landlord and if such tenant is permitted to question the title of the landlord, it will give rise to extreme confusion in the matter of relationship of the landlord and tenant and hence the equitable principle of estoppel has been incorporated by the legislature. The relevant extract of the ***Bansraj Laltaprasad Mishra case*** is reproduced below:

> *"13.* ***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.***
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> *14. 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***

[6] (2006) 3 SCC 91

> ***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.*
>
> ***15. 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****."*
>
> [Emphasis Supplied]

13. So far as concerns the bonafide need, the need as projected by the Respondents/landlords is for the need of their whole family. It is stated in the Eviction Petition that the Respondents/landlords have a large family and that with the growing need of their family they also require subject premises for residential purposes. The need as set out in the Eviction Petition is for the bonafide need of the family of the Respondents/landlords. The relevant extract of the Eviction Petition is as follows:

> *"**That the petitioners needs and requires the tenanted/suit Premises for bonafide requirement of herself and her family members, who are dependent upon her. There is no other suitable residential property available to the petitioner or her family family members. The respondent has other suitable residence apart from the tenanted premises. The need and requirement of the petitioner and her family members even exceeds nine rooms whereas at present she is having only five rooms including a drawing room.** The paucity of residential accommodation to the petitioner and her family members is to that extent that she is unable in view of the same, even to marry her sons.*
>
> [Emphasis Supplied]

14 The learned Trial Court has examined this aspect and found the need to be bonafide. No challenge is made before this Court in this behalf. This Court has examined the Impugned Order in relation to the findings on bona fide need. The need as set out is for bona fide residential purposes of the family of the Respondents/landlords. The learned Trial Court has found that

the need of the Respondents/landlords is bona fide. Thus, this Court finds no infirmity with the finding of the learned Trial Court.

15. On the aspect of availability of alternate suitable accommodation, the Petitioner/tenant had stated that the Respondents/landlords have other properties available including property on the first floor bearing No.7503-7506, Kasabpura, Sadar Bazar, Delhi. The learned Trial Court examined this contention and found that the each of these properties are occupied by tenants and also the property bearing No.7506 is where the sons of the Respondents/landlords are running their business. The learned Trial Court found that even though the Petitioner/tenant had averred that there is sufficient accommodation, no details of any accommodation were set out by the Petitioner/tenant. The learned Trial Court examined the contentions and found that the claims of the Petitioner/tenant were not supported by any details or even documents and thus, rejected the same. No contrary submissions have been made before this Court.

16. A Coordinate Bench of this Court in the case of ***Lalta Prasad Gupta v. Sita Ram***[7], has held that for a tenant to seek leave to defend on the ground that alternate suitable accommodation is available with the landlord, the onus is on the tenant to provide specific particulars. The burden on the tenant falls between mere vague allegations and conclusive documentary proof, and its extent depends on the facts of each case. The relevant extract of the ***Lalta Prasad Gupta case*** is reproduced below:

> *"18. Thus, if* ***the tenant seeks leave to defend controverting the requirement pleaded by landlord on the ground of the landlord, though at the time of requirement having alternate premises, having not used the same and instead having commercially exploited the same, the tenant***

[7] 2017 SCC OnLine Del 13026

> ***must plead (a) the particulars of such premises; (b) the right/title of the landlord to the same; (c) that the said premises were vacant and available for use at the time of the pleaded requirement of landlord; (d) how the said premises were suitable for the pleaded requirement; and, (e) how the landlord has deprived himself thereof i.e. by sale or letting and support the said pleas with material on the basis whereof such pleas will be proved.*** *I say that it is essential to place such material before the Rent Controller because the purpose of trial, resulting from grant of leave to defend, is to prove the said pleas and if the tenant has nothing from which he can possibly prove the said pleas, the trial also will not result in the landlord being "disentitled from obtaining an order for recovery of possession of premises on the ground specified in Clause (e) of proviso to sub Section (1) of Section 14" of the Act, within the meaning of Section 25B(5) supra. This is not to say that the tenant should file fool proof documentary evidence at the stage of leave to defend. However, there must be placed on record all the requisite particulars.* ***The onus on the tenant, at the stage of seeking leave to defend, is thus somewhere in between fool proof documentary evidence and a totally vague, bereft of any particulars plea. Where, in between the said onus lies, depends on facts of each case.****"*
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> [Emphasis Supplied]

17. The examination by a Court in a Revision Petition is limited and circumspect. The Supreme Court in ***Abid-Ul-Islam case***, has held that the jurisdiction of this Court is only revisionary in nature and limited in its scope. The Supreme Court while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the said Act has held that this is a conscious omission. The High Court is not expected to substitute and supplant its view with that of the learned Trial Court, its only role is to satisfy itself on the process adopted. Thus, the scope of revisionary jurisdiction of this Court has been limited to examine if there is an error apparent on the fact of the record or absence of any adjudication by the learned Trial Court, and it is only then should the High Court interfere. The legislature has consciously removed the two stages Appeal which existed priorly. The Supreme Court has also cautioned from converting the power of superintendence into that of a

regular first Appeal under revisionary jurisdiction. The relevant extract of the ***Abid-ul-Islam*** case is as follows:

> *"23. The proviso to Section 25-B(8)* ***gives the High Court exclusive power of revision against*** *an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance.* ***Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record****, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.*
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> *xxx* *xxx* *xxx*
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> *25. The aforesaid decision has been recently considered and approved by this Court in* Mohd. Inam *v.* Sanjay Kumar Singhal [Mohd. Inam *v.* Sanjay Kumar Singhal, *(2020) 7 SCC 327 : (2020) 4 SCC (Civ) 107] : (SCC pp. 340-41, paras 22-23)*
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> > *"22. This Court in* Sarla Ahuja *v.* United India Insurance Co. Ltd. [Sarla Ahuja *v.* United India Insurance Co. Ltd., *(1998) 8 SCC 119] had an occasion to consider the scope of proviso to Section 25-B(8) of the Delhi Rent Control Act, 1958. This Court found, that though the word "revision" was not employed in the said proviso, from the language used therein, the legislative intent was clear that the power conferred was revisional power. This Court observed thus : (SCC p. 124, para 11)*
> >
> > > *'11. The learned Single Judge of the High Court in the* ***present case has reassessed and reappraised the evidence afresh to reach a different finding as though it was exercising appellate jurisdiction****. No doubt even while exercising revisional jurisdiction, a reappraisal of evidence can be made,* ***but that should be for the limited purpose to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.*** *'*
>
> ***It could thus be seen, that this Court has held, that the High Court while exercising the revisional powers under the Delhi***

Rent Control Act, 1958 though could not reassess and reappraise the evidence, as if it was exercising appellate jurisdiction, however, it was empowered to reappraise the evidence for the limited purpose so as to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.

[Emphasis supplied]

18. In view of the aforegoing discussions, this Court finds no infirmity with the Impugned Order. The Petition and pending Application is accordingly dismissed.

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

TARA VITASTA GANJU, J

MARCH 6, 2025/ *ha*/pa

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