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

Date of Decision: 10.01.2025

\+ **RC.REV. 393/2024 & CM APPL. 75463/2024**

K S BAKSHI & ORS. .....Petitioners

Through: Mr. Abhijat, Sr. Adv. with Mr. Ravi Krishan Chandna, Mr. Harshvardhan Gupta, Mr. Mudit Ruhella, Mr. Malyaj Sehgal, Advs.

versus

SURINDER NATH HUF & ANR. .....Respondents

Through: Mr. Anil Sapra, Sr. Adv. with Mr. Manish Makhija, Mr. Sarthak Katiyal, Mr. Shyam Gaur, Ms. Simran Makhija, Mr. Shyam Gaur, Advs.
Ms. Manisha Agarwal Narain, CGSC with Mr. Sandeep Singh Somaria, Adv. for UOI

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed on behalf of the Petitioners/tenants seeking to challenge an order dated 07.06.2024 passed by Ld. ACJ/ARC/CCJ-New Delhi District, Patiala House Courts in RC ARC 5507/2016 [hereinafter referred to as 'Impugned Order']. By the Impugned Order, the Respondents/landlords were held entitled for recovery of the tenanted premises i.e. property bearing no. 20/48, First Floor, Malcha Marg, Chanakyapuri, New Delhi 110021 [hereinafter referred to as 'subject premises'].

2. This Court had on 23.12.2024 after hearing the arguments on behalf of both parties, had examined the matter in its entirety and thereafter, gave a finding on the grounds raised by the Petitioners/tenants, including the record of the learned Trial Court as filed with the Petition. It is apposite to set out the relevant extract of this order:

> "…
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> 9. Learned Senior Counsel appearing on behalf of the Petitioners/tenants submits that the Rent Controller has no jurisdiction to entertain the present Petition, in view of the fact that the rental for the subject premises was admitted to be Rs. 20,000/- per month. He seeks to rely upon the evidence given by the brother of the Karta of Respondent No.1 (HUF) before the learned Trial Court to submit that it was admitted by PW-2 (Sanuj Nath) that the agreed rent of the subject premises was "Rs. 20,000/-" and "Rs. 18,500/- was the adjustment amount". It is contended that once an admission of this nature appears in the evidence, the Rent Controller has no jurisdiction to entertain the present Petition.
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> 10. Learned Senior Counsel appearing on behalf of the Respondents/landlords, on the other hand, refutes this contention. He seeks to rely upon the Eviction Petition, which sets out the rental between the parties as Rs. 1,500/- per month and also the copy of the registered lease deed dated 02.11.1993 to submit that the rental as agreed between the parties was Rs. 1,500/- per month as recorded in the said document. Learned Senior Counsel further submits that this agreed rental amount was paid every month by the Petitioners. He further submits that it is the admitted case of both parties that the rental was Rs. 1,500/- per month. Thus, it is contended by the learned Senior Counsel for the Respondents/landlords that the Impugned Order does not suffer from any infirmity.
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> 11. Learned Senior Counsel additionally submits that the Respondents/landlords have waited for 14 long years for the trial to end and are presently living in a rented accommodation, while the subject premises are being used as a library/resting place only by the Petitioners/tenants.
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> 12. The record shows that the Eviction Petition sets out Rs.1,500/- per month (in Para 11) as the agreed rental. The Petitioners/tenants in their written statement (annexed as Annexure P3 at page 232) states that the contents of Para 11 are not denied. Hence, there is clear admission on the

part of the Petitioners/tenants in that behalf. In addition, the affidavit in evidence of the Petitioner/tenant in para 15 again sets out an admission of the monthly rental being Rs.1,500/- per month in that behalf. The relevant extract of the Affidavit of Petitioner No.3 is reproduced below:

> *"15. That the property in question was let out by the Petitioner No. 2 Company initially for a period of 5 years in February 1993 at the monthly rent of Rs.1,500/- per month renewable at the option of the ·tenants. The respondents gave a security deposit of Rupees 5 lakhs to the landlord. The company and Mr. Surinder Nath however could not hand over the possession to the respondent…."*
>
> *[Emphasis Supplied]*

12.1 Given the admissions made by the Petitioners/tenants with respect to the agreed rental between the parties, coupled with the lease deeds which have been placed on record by the Respondents/landlords which were also filed before the learned Trial Court and relied upon by the Respondents/landlords, this Court finds the challenge by the Petitioners/tenants on this aspect without any merit.

13. The only other contention that is raised on behalf of the Petitioners/tenants is the fact that Respondent No.1/HUF is not the landlord, since the lease agreement was executed between the Petitioners/tenants and Respondent No.2 Company. This contention was raised by the Petitioners/tenants before the learned Trial Court. The learned Trial Court after examining the record, held that in view of the fact that a Registered Conveyance Deed (exhibited as Exhibit PW4/A) was executed by NDMC in favour of Respondent No.1 on 23.12.2020, this contention of the Petitioners/tenants is without any merit.

13.1 In any event, on the aspect of challenge to the ownership raised by the Petitioners/tenants, 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 under Section 14 (1) (e) of the Delhi Rent Control Act, 1958. The Supreme Court in the case of Swadesh Ranjan Sinha v. Haradeb Banerjee, 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]*

> 14. In addition, the learned Trial Court found that the Respondent No.2 sent a letter dated 27.01.2003 to the Petitioners/tenants, informing them that the Respondent No.2 has surrendered the lease hold rights of the property in favour of Respondent No.1. This letter also directed the Petitioners/tenants to attorn to the Respondent No.1 as landlord and pay future rent to Respondent No.1. Undisputable thereafter, the Petitioners/tenants paid the monthly rent in the sum of Rs. 1500/- per month to the Respondent No.1, which position continued thereafter.
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> 14.1 The learned Trial Court also found that no recourse to the procedure established under Section 27 of the Delhi Rent Control Act, 1958 was taken by the Petitioners/tenants against the Respondents/landlords. Thus, it was held that the Petitioners/tenants had attorned to Respondent No.1.
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> 15. Prima facie, the findings of the learned Trial Court have been examined by this Court, and this Court finds no infirmity with the Impugned Order."

3. The Eviction Petition was filed for the bonafide need by the Respondents/landlords on 02.02.2010 and, as is set out above, the leave to defend/contest was allowed by the learned Trial Court and thereafter, a full trial was conducted in the matter, pursuant to which an order evicting the Petitioners/tenants was passed by the learned Trial Court.

4. Learned Senior Counsel appearing on behalf of the Petitioners/tenants, during the hearing of the matter on 23.12.2024 and 24.12.2024, raised two contentions. In the first instance, it was contended that the learned Rent Controller has no jurisdiction to entertain the Eviction Petition since the rental for the subject premises was Rs.20,000/-. Secondly, it was contended by the learned Senior Counsel appearing on behalf of the Petitioners/tenants that the Respondent No.1/HUF is not the landlord of the Petitioners/tenants in view of the fact that the Lease Agreement was executed between the Petitioners/tenants and the Respondent No.2/Company. Thus, it was

contended that the Eviction Petition is not maintainable and the Impugned Order cannot be sustained.

5. On 23.12.2024 given the *prima facie* finding of the Court, learned Senior Counsel appearing on behalf of the Petitioners/tenants, on instructions, had sought time to take instructions on additional time to vacate the subject premises. It is now contended by learned Senior Counsel for the Petitioners/tenants that what was sought on that date was not time to *"vacate the subject premises"* but time to take instructions.

5.1 Learned Senior Counsel appearing on behalf of the Respondents/landlords, on the other hand, submits that the Court was inclined to dismiss the Revision Petition after hearing the arguments on 23.12.2024, at which stage, an adjournment was sought by the learned Counsel appearing on behalf of the Petitioners/tenants to take instructions from his client to seek additional time to vacate the subject premises.

6. On 23.12.2024, the Court had heard arguments of both parties and examined the matter in its entirety and thereafter, gave a finding on the grounds raised by the Petitioners/tenants. It is apposite to extract paragraph 16 of the Order dated 23.12.2024, in this regard, which is self-explanatory and set out below:

> "16. At this stage, learned Senior Counsel for the Petitioners/tenants, on instructions, requests for some time to take instructions to vacate the subject premises."

7. Learned Senior Counsel appearing on behalf of the Petitioners/tenants, on instructions, today submits that the

Petitioners/tenants requests this Court to decide the Revision Petition on merits.

8. Accordingly, with the consent of the parties, this matter is being taken up for hearing and disposal today.

9. Learned Senior Counsel appearing on behalf of the Petitioners/tenants reiterates his contention made previously that there is an admission by PW2 (Sh. Sanuj Nath, who is the brother of the Karta of Respondent No.1/HUF) that the agreed rent of the subject premises was Rs.20,000/- per month and Rs.18,500/- was the *"adjustment amount"*. It is contended that once such an admission has been made by the Respondents/landlords, the learned Rent Controller had no jurisdiction to entertain the Eviction Petition much less pass the Impugned Order.

9.1 In addition, it is averred by the Learned Senior Counsel appearing on behalf of the Petitioners/tenants that the Lease Agreement was executed between the Petitioners/tenants and the Respondent No.2/Company, and thus, the Respondent No.1/HUF is not the landlord of the Petitioners for the subject premises and hence is not entitled to file an Eviction Petition.

10. Learned Senior Counsel appearing on behalf of the Respondents/landlords has submitted that so far as concerns the plea that the Eviction Petition was hit by the provisions of the Section 3(c) of the Delhi Rent Control Act, 1958 [hereinafter referred to as 'the Act'], the same has already been dealt with in the order dated 23.12.2024 passed by this Court. Learned Senior Counsel reiterates that the Lease

Agreement between the parties sets out a rental of Rs.1,500/- per month and that there is a clear admission on part of the Petitioners/tenants on this aspect of the matter. Relying on the evidence given by the Petitioner No.3, it is contended an admission was made by Petitioner No.3 that the subject premises was let out by Respondent No.2 initially for a period of 9 years in February 1993, at the monthly rent of Rs. 1,500/-. In addition, it is contended that paragraph 11 of the Eviction Petition sets out Rs. 1,500/- as the agreed rent, and this very fact has not been denied by the Petitioners/tenants in the written statement.

10.1 Learned Senior Counsel for the Respondents/landlords submits that even on the aspect of *bona fide* requirement, the learned Trial Court has found that the need of the Respondents/landlords is *bona fide*. It is averred that the Respondents/landlords have no other alternate accommodation and that the Respondents/landlords are residing in a tenanted premises. Reliance is placed by the learned Senior Counsel on paragraphs 10.40 to 10.44 of the Impugned Order in this behalf.

11. The contentions as raised by the Petitioners/tenants were also raised by the Petitioners/tenants before the learned Trial Court. The learned Trial Court has examined these contentions and, as stated above, the Impugned Order has been passed after a complete trial was conducted in the matter. The Impugned Order is detailed and the learned Trial Court has examined each contention raised including the aspect of the rental paid by the Petitioners/tenants.

12. The first challenge that has been raised by the Petitioners/tenants

before this Court is a challenge to the maintainability of the Eviction Petition. It is stated that the Eviction Petition was barred by the provisions of Section 3(c) of the Act, since the rental payable was Rs.20,000/- per month, which was admitted to by the brother of the Karta of Respondent No.1/HUF in his cross-examination. Section 3(c) of the Act states that the provisions of the Act shall not apply where the monthly rent of the premises is more than Rs.3,500/- per month. The relevant extract of Section 3 of the Act is below:

> *"3.* ***Act not to apply to certain premises — Nothing in this Act shall apply****—*
> *(a) ...*
> *(b) ...*
> *(c) to any premises, whether residential or not,* ***whose monthly rent exceeds three thousand and five hundred rupees; or***
> *(d) ..."*
>
> [Emphasis supplied]

12.1 The learned Trial Court examined this contention raised by the Petitioners/tenants and found that the tenancy between the parties is governed by a lease deed dated 02.11.1993 [Ex. PW1/R], where the rate of rental is recorded as Rs.1,500/- per month. The Petitioners/tenants relied on the extract of the cross-examination, which states that the amount of Rs.18,500/- was not part of the rent to give a finding that Ex. PW1/R proves the rate of rental, conclusively as Rs.1,500/- per month.

13. It is apposite to refer to the lease agreement dated 02.11.1993 executed between the Respondent No.2/Company and the Petitioners/tenants [PW1/R] [hereinafter referred to as "Lease Agreement"]. Clause 1 of the Lease Agreement sets out that the rental shall be Rs.1,500/- per month in the following terms:

> *"1. That in consideration of the payment of rent hereinafter reserved and the covenants and conditions hereinafter contained, to be observed and performed by the TENANT, the LANDLORD had agreed to grant and demise by way of lease ALL THAT First Floor having an area of approximately 1400 Sq. ft. on property No.20/48, Malcha Marg, Diplomatic Enclave, New Delhi 110021 consisting of one drawing room, one kitchen, two rooms, one bathroom, verandah alongwith right to use the stair case open area leading from the ground floor leading to the First floor together with* ***fixtures, electric and water pipe fittings etc. & TO HOLD the same for a term of nine years at a rental of Rs.1,500/- (Rupees one thousand five hundred only) per month, subject to the terms and conditions stated hereunder."***
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> [Emphasis supplied]

13.1 This is also made clear by the Clause 2(i) of the Lease Agreement, which sets out that the advance rental amounting to Rs.1,62,000/- has been paid in cash by the Petitioners/tenants to the Respondents/landlords for a period of 9 years. Thus, the monthly rental for nine years would be Rs.1,500/- per month. Clause 2(i) of the Lease Agreement is extracted below:

> *"2(i) That the TENANT has already paid to the* ***landlord advance rent for Nine years amounting to Rs.1,62,000/- (Rupees one lakh and sixty two thousand only) in CASH and the*** *landlord acknowledges receipt thereof. The Tenant shall also directly pay to the New Delhi Municipal Committee or any other statutory body water and electricity charges as per bills received from time to time."*
>
> [Emphasis supplied]

14. In addition, the record reflects that upon the expiry of the period of nine years of the Lease Agreement, a communication was sent by the Petitioners/tenants to Respondent No.2/Company for the extension of the lease of the subject premises by way of a registered letter sent on 14.12.2002 [hereinafter referred to as the "Letter of Extension"]. This

Letter of Extension sets out that the renewal option provided in the Lease Agreement is being exercised for a further period of nine years on the same terms and conditions and that the advance rental for another nine year period in the sum of Rs.1,62,000/- was enclosed by way of a cheque. The relevant extract of the Letter of Extension (which is annexed as Annexure P-8 to the present Petition) is below:

> *"...Sub: Extension of lease for the 1st Floor of property No.20/48 Malcha Marg, New Delhi.*
>
> *Dear Sirs,*
>
> *The 1st floor of the above property was* ***leased out to us by you for a period of 9 years w.e.f 18.3.93 at a rent of Rs. 1500/- per month with an interest free security of Rs.3.00 lacs as per Lease Deed registered in the office of Sub Registrar- III, New Delhi as S.No.1881 entered in additional Book No.1, Vol.143 on pages 74-81 on 2.11.93****. Necessary rent for 9 years alongwith the amount of security deposit was also duly paid to you at the time of registration of Lease Deed as duly mentioned in the said Lease Deed.*
>
> *xxx xxx xxx*
>
> ***As per terms of the lease deed, the rent of the premises was to be paid to you for a period of nine years in advance. Accordingly we enclose a cheque for Rs. 1,62,000/- (Rupees one lac sixty two thousand only) in your favour and receipt thereof may kindly be acknowledged…****"*
>
> [Emphasis supplied]

14.1 The Letter of Extension is also a clear admission of the rental payment of Rs.1,500/- per month by the Petitioners/tenants.

15. This Court has also perused the cross-examination of PW2 (Sh. Sanuj Nath) dated 17.11.2018 which was relied upon by the Petitioner/tenants. The relevant extract is below:

> *"...I do not know the rent of the suit property being paid to the landlord.*
>
> *At this stage, witness is confronted* ***with his petition wherein the rate of rent is stated to be Rs.1500/- with his WS Ex.PW1/R5 where from point A to A1 it is mentioned that rate of rent was Rs.20,000/- and later reduced to Rs.1500/- and asked to explain it.***
>
> ***Witness states that market rent was Rs.20,000/- however, respondents were paying Rs.1500/- as rent.***
>
> ***The lesser rent was charged from respondents for the reason that my father had purchased the property at Ghitorni from the respondents and adjustment was being made towards consideration amount of the property at Ghitorni. It is correct that the actual rent agreed between us was Rs.20,000/- and Rs.18,500/- was the adjustment amount. The amount of Rs.18,500/- being adjusted, was not part of rent. However, I cannot explain it.*** *(Objected to by Ld. Counsel for petitioner stating that witness has already answered the question.)*
>
> *Further cross-examination is deferred, to be continued on NDOH."*
>
> [Emphasis supplied]

15.1 The cross-examination also shows the witness (PW 2) first stated that he did not know the rent, then stated that the Respondents (Petitioners/tenants herein) were paying Rs.1,500/- as rent and some amount of Rs.18,500/- was being adjusted, since Rs.20,000/- was the market rent. It also sets out that the amount of Rs.18,500/- being adjusted *"was not part of the rent"*. Clearly, thus the market rent was higher, but the actual rent being paid by the Petitioners/tenants was Rs. 1,500/- only. This Court does not find this to be an admission of rental of Rs.20,000/- or 18,500/- but in fact a re-affirmation of the agreed rental being Rs.1,500/- per month.

16. The pleadings before the learned Trial Court also show that the

Eviction Petition sets out Rs.1,500/- per month as the agreed rent. Paragraph 11 of the Eviction Petition sets out Rs.1,500/- as the agreed rental. The Petitioners/tenants in their written statement [annexed as Annexure P3] state that the contents of Paragraph 11 are not denied. Hence, there is clear admission on the part of the Petitioners/tenants in this regard as well.

16.1 The Affidavit-in-evidence as filed by the Petitioner No.3/tenant in para 15 again sets out an admission of the monthly rental being Rs.1,500/- per month. The relevant extract of the Affidavit of Petitioner No.3 is reproduced below:

> *"15. That the property in question was let out by the Petitioner No. 2 Company initially for a* ***period of 5 years in February 1993 at the monthly rent of Rs.1,500/- per month renewable at the option*** *of the ·tenants. The respondents gave a security deposit of Rupees 5 lakhs to the landlord. The company and Mr. Surinder Nath however could not hand over the possession to the respondents…."*
>
> [Emphasis Supplied]

16.2 The pleadings/evidence filed by the Petitioners/tenants thus conclusively affirm the factum of a monthly rental of Rs. 1,500/- per month for the subject premises.

17. Even assuming there was some new arrangement between the parties no documentary evidence was produced by the Petitioners/tenants during the Trial. No new evidence has been shown before this Court either. Concededly, no new lease agreement was executed between the parties thereafter and the Petitioners/tenants have continued in occupation of the subject premises based on the Lease Agreement. In

any event, the Petitioners/tenants have not been able to show any document evidencing payment of more than Rs.1,500/- per month to the Respondents/landlords. Thus, the contention that the Eviction Petition was barred by the provisions of Section 3(c) of the Act is without any merit.

18. The only other contention raised by the Petitioners/tenants before this Court is that the Lease Agreement was executed by the Petitioners/tenants with the Respondent No.2/Company and that Respondent No.1/HUF is not the landlord. This contention was also raised by the Petitioners/tenants before the learned Trial Court. The learned Trial Court after examining the record, held that in view of the fact that a Registered Conveyance Deed [exhibited as Exhibit PW4/A] was executed by NDMC in favour of Respondent No.1 on 23.12.2020, this contention was without any merit.

18.1 The learned Trial Court also gave a finding that the Respondent No.2 sent a letter dated 27.01.2003 to the Petitioners/tenants, informing them that the Respondent No.2/Company has surrendered the leasehold rights of the property in favour of Respondent No.1/HUF. This letter also directed the Petitioners/tenants to attorn to the Respondent No.1/HUF as landlord and pay future rent to Respondent No.1/HUF.

19. As discussed above, the Letter of Extension was sent by the Petitioners/tenants to Respondent No.2 on 14.12.2002, which was replied to by Respondent No.2/Company by its letter dated 27.01.2003, wherein it was stated that Respondent No.2/Company has surrendered its

leasehold rights in favour of Respondent No.1/HUF. The relevant extract of this communication [which is annexed as Annexure P-9] is below:

> *"We further inform you that* ***we have surrendered our leasehold rights to its owner M/s Surinder Nath (HUF) through its Karta Shri Anuj Nath, S/o Late Shri Surinder Nath w.e.f. 1st April' 1998. therefore, we direct you to attorn M/s. Surinder Nath (HUF) as your landlord and pay the rent directly in favor of M/s. Surinder Nath (HUF). These instructions arc irrevocable from our end.***
>
> *xxx* *xxx* *xxx*
>
> ***We further call upon you to pay the rent in the manner and mode as stated here in above*** *in the name of M/s Surinder Nath (HUF) immediately on receipt of this letter as the rent in arrears since 18th March' 2002…"*
>
> [Emphasis supplied]

19.1 Undisputable thereafter, the Petitioners/tenants paid the monthly rent in the sum of Rs. 1500/- per month to the Respondent No.1/HUF, which position continued thereafter.

20. The learned Trial Court also dealt with the contention that the Petitioners/tenants were forced to pay rental to the Respondent No.1 for fear of being in default of rental payments. It was held that no recourse to the procedure established under Section 27 of the Act was taken by the Petitioners/tenants against the Respondents/landlords. Thus, it was held that the Petitioners/tenants had attorned to Respondent No.1/HUF. The relevant extract of the Impugned Order is set out below:

> *"10.32* ***Further, as far as the contention of the respondents is concerned that rent was paid to petitioner no. 1 to avoid any default, it is essential to discuss Section 27 of the Delhi Rent Control Act which provides as follows****:*
>
> *"27. Deposit of rent by the tenant. -*
>
> *(1) Where the landlord does not accept any rent tendered by the*

tenant within the time referred to in section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner:

[Provided that in case where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may remit such rent to the Controller by postal money order.]
xxxx"

10.33 While interpreting the aforesaid provision, the Hon'ble Supreme Court has held in ***Sarla Goel & Ors vs Kishan Chand****, 2009 (7) SCC 658 that:*

"Now we come to the most important provision regarding ***the procedure under the Act to pay or deposit or tender rent to the landlord, if he refuses to grant any receipt in respect of the payment already made to him****. As quoted herein earlier, Section 27 deals with deposit of rent by the tenant. It clearly says that where the landlord* ***does not accept any rent tendered by the tenant within the time referred to in Section 26 or refuses or neglects to deliver a receipt referred*** *to therein or where there is a bona fide doubt as the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner…*

xxx *xxx* *xxx*

10.34 It is matter of record that in 2002, the ***petitioner no. 2 had refused to accept the rent from the respondents and asked them to pay the rent to petitioner no. 1 as it was the owner of the property in question. In such a scenario, when the petitioner no. 2 had refused to accept the rent and if respondents were in doubt as to whom the rent is payable, then they should have taken recourse to the procedure established under Section 27 of the Delhi' Rent Control Act.*** *As has been quoted above, the Hon'ble Supreme Court has held that the aforesaid procedure has to be strictly followed and the word "may" featuring in the proviso has to be read as "shall". Therefore, the only inevitable conclusion that follows is that* ***when the petitioner no. 2 refused to accept rent and if the respondents were having any bona fide doubt as to whom the rent if payable, they should have taken the recourse of procedure enumerated in Section 27.***

10.35 In my opinion, the act of the respondents in not ***availing the aforesaid provision and paying the future rent to petitioner no. 1 duly amounts to attornment. Thus, it is held that the respondents have duly attorned the***

petitioner no. 1 as their landlord."

[Emphasis supplied]

21. The Impugned Order records that there was a clear admission on the part of the Petitioners/tenants that they paid the rental of Rs. 1,500/- per month thereafter, to Respondent No.1 to avoid any default. Concededly, the Petitioners/tenants did not take any steps thereafter as are contemplated under Section 27 of the Act and the Petitioners/tenants continued to pay agreed rental amount in the sum of Rs.1,500/- to Respondent No.1/HUF, thus attorning to them thereafter. In addition, once the title of the subject premises was fructified in favour of the Respondent No.1/HUF by a registered conveyance deed dated 23.12.2020 [Ex. PW4/A] the same is sufficient evidence of the title of the Respondent No.1/HUF to the subject premises.

22. The challenge to the title of Respondent No.1 is also barred by the provisions of Section 116 of the Evidence Act,1872/Section 122 of The Bharatiya Sakshya Adhiniyam, 2023, which provides for an estoppel on the tenant to deny the title of the 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."*

22.1 The Supreme Court in the case of ***Bansraj Laltaprasad Mishra v.***

Stanley Parker Jones,[1] has held 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, then that 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.***
>
> *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 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]

23. It is no longer *res integra* that in the context of ownership in an Eviction Petition, all that a landlord is required to prove is that he has a better title than the tenant. The Supreme Court in the case of ***Swadesh***

[1] **(**2006) 3 SCC 91

Ranjan Sinha v. Haradeb Banerjee[2], 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]

23.1 The Respondents/landlords in the present case have done more than that, by conclusively showing their title to the subject premises.

24. On the aspect of *bona fide* need learned Trial Court while relying on the cross examination of the Respondents/landlords [PW1 to PW3], has held that the subject premises is required for the residential use of the family of Respondent No.1 and hence the need is genuine and *bona fide*. The relevant extract of the Impugned Order is reproduced below:

> "*10.40 I shall now discuss whether the tenanted premises are required bona fide by the landlord either for himself or for his family members.* ***Ld. Counsel for the petitioners has submitted that petitioner no. 1 is an HUF with PW1 and his family, PW2 and his family, and their mother as it's members. The property bearing no. 420, Ghitorni,*** *MG Road, Delhi is in occupation of PW2 and his family alongwith mother of PW1 and PW2. It is further submitted* ***that PW1 who is the karta of petitioner no. 1, alongwith his family that comprises of his wife and two adult sons, was earlier residing on rent at property bearing no. 53, first floor, Sainik Farms, New Delhi and is currently residing on rent at W5/25****, Sainik Farms, New Delhi. To support his submissions, Ld. Counsel had relied upon Ex. PW1/J(colly) which are the MTNL bills of property bearing no. 53, first floor, Sainik Farms, New Delhi in the name of Sh. Anuj Nath, Karta of petitioner no. 1.*
>
> *10.41 Ld. Counsel for the petitioners has further submitted that tenant cannot dictate terms to the landlord as to how else can the latter adjust himself without getting the possession of the tenanted premises.* ***The***

[2] (1991) 4 SCC 572

petitioner no. 1 is the owner of the premises and the premises are required bona fide for the residence of Karta of petitioner no. 1 and his family*. Ld. Counsel for the petitioners has also placed reliance upon* ***M/S. Metro Bearings vs Mrs. Faizunnisa & Ors., RC. REV. 513/2018*** *passed by Hon'ble High Court of Delhi.*

10.42 Per Contra, Ld. Counsel for the respondents has submitted that the petitioner no. 1 is in occupation of property bearing no. 420, Ghitorni, MG Road, Delhi of which the petitioner no. 1 claims to be the owner. ***It is further submitted that the said property is large enough to house all the members of petitioner no. 1 as PW1, in his cross-examination, has himself admitted that the said property is approximately 1000 sq. Yards.***

10.43 Bonafide requirement means that requirement must be honest and not tainted with any oblique motive and is not a mere desire or wish. Ld. Counsel for the petitioners has also ·placed reliance upon ***Dattatraya Laxman Kamble vs Abdul Rasul Moulali Kotkunde & Anr 1999 AIR SCW 2259****, passed by Hon'ble Supreme Court of India wherein it has been held that:*

> *"****When a landlord says that he needs the building for his own occupation there is no doubt he has to prove it. But there is no warrant for presuming that his need is not bona fide. The statute enjoins that the court should be satisfied of his requirement.*** *So the court would look into the broad aspects and if the court feels any doubt about the bona fides of the requirement it is for the landlord to clear such doubts. Even in a case where the tenant does not contest or dispute the claim of the landlord the court has to look into the claim independently albeit landlords burden gets lessened by such non-dispute. In appropriate cases it is open to the court to presume that the landlords requirement is bona fide and put the contesting tenant to the burden to show how the requirement is not bona fide."*

10.44 ***PW1 to PW3 have all submitted in their evidence by way of affidavit that the family of Sh. Anuj Nath, Karta of petitioner no. 1 is living in tenanted premises*** *in Sainik farms and PW2 along with his family and mother is residing in the aforesaid Ghitorni property. It is further stated that initially all the members of petitioner no. 1 were residing in the said Ghitorni property which comprises of three bedrooms, one drawing room, basement, three bathrooms and one kitchen. Thereafter in 2004, PW 1 and his family shifted to tenanted premises in Sainik farms due to insufficiency of space in Ghitorni property. PWI/J (colly) are the MTNL bills of property bearing no. 53, first floor, Sainik Farms, New Delhi which are in the name of Sh. Anuj Nath, Karta of petitioner no. 1.* ***After perusing the entire cross-examinations of PW1 to PW3, it is observed that there is absolutely nothing in them to doubt the veracity of averments put forth by the said***

witnesses that PW1 along with his family is staying in the tenanted premises in Sainik Farms. The said averment of the aforesaid witnesses has stood the test of cross-examination."

[Emphasis supplied]

25. For availability of suitable alternate accommodation, it has been held that the property at Gittorni is embroiled in *inter se* litigation amongst the members of Respondent No.1/HUF, hence is not available for use. In addition, it is contended that the size of the property at Gittorni is not sufficient to accommodate all members of Respondent No.1. The learned Trial Court has further held that Petitioners/tenants were not able to prove availability of any other property with the Respondents/landlords.

25.1 The Supreme Court in the case of ***Prativa Devi (Smt) v. T.V. Krishnan***[3] has held that tenant cannot dictate the terms of use of a property to a landlord and that the landlord is the best judge of his requirements. It is not for the Courts to dictate in what manner and how a landlord should live. This Court while relying on the Prativa Devi case has in the ***R.S. Chadha (thr. SPA) v. Thakur Dass***[4] held:

"13.1 It is settled law that the ***tenant cannot dictate the terms of use of a property to a landlord and that the landlord is the best judge of his requirements. It is not for the Courts to dictate in what manner and how a landlord should live. It is also not for the Courts to adjudicate that the landlord has a bonafide need or not. The Courts will generally accept the landlords need as bonafide.*** *The Supreme Court in the case of Prativa Devi (Smt) v. T.V. Krishnan [(1996) 5 SCC 353] has directed:*

> *"2. The proven facts are that the appellant who is a widow, since the demise of her husband late Shiv Nath Mukherjee, has been staying as*

[3] (1996) 5 SCC 353
[4] 2024 SCC OnLine Del 47

a guest with Shri N.C. Chatterjee who was a family friend of her late husband, at B-4/20, Safdarjung Enclave, New Delhi. There is nothing to show that she has any kind of right whatever to stay in the house of Shri Chatterjee. On the other hand, she is there merely by sufferance. The reason given by the High Court that the appellant is an old lady aged about 70 years and has no one to look after her and therefore she should continue to live with Shri Chatterjee, was hardly a ground sufficient for interference. ***The landlord is the best judge of his residential requirement. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own.*** *The High Court is rather solicitous about the age of the appellant and thinks that because of her age she needs to be looked after. Now, that is a lookout of the appellant and not of the High Court. We fail to appreciate the High Court giving such a gratuitous advice which was uncalled for.* ***There is no law which deprives the landlord of the beneficial enjoyment of his property. We accordingly reverse the finding reached by the High Court and restore that of the Rent Controller that the appellant had established her bona fide requirement of the demised premises for her personal use and occupation, which finding was based on a proper appreciation of the evidence in the light of the surrounding circumstances.*** *"*

13.2 In any event, ***it is only the Respondent/landlord and his family who can decide what is sufficient space as per their needs and requirements. Sufficiency of residential accommodation for any person would essentially be dependent on multiple factors, including his living standard and general status in society.*** *In view of the fact that admittedly the Respondent/landlord has a large family, it is not open to the Petitioner/tenant to contend that requirement of 6 rooms as pleaded by the Respondent/landlord, is not Bonafide.*

13.3 The Trial Court has dealt with the sufficiency of accommodation of the Respondent/landlord in the Impugned Order. This Court finds no reason to impugn these findings."

[Emphasis supplied]

26. As has been stated above, no averment has been made before this Court challenging the *bonafide* need or that there is availability of alternate suitable accommodation with the Respondents/landlords. The learned Trial Court has examined the contentions raised before it and

found that the challenge on these aspects cannot be sustained. This Court finds no infirmity with these finding of the learned Trial Court.

27. The Supreme Court in ***Abid-ul-Islam v. Inder Sain Dua***[5] has held that the jurisdiction of this Court is only revisionary in nature and limited in 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 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:

> *"Scope of revision*
>
> *"22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8).* ***The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under*** *sub-section (5). The intendment of the legislature is very clear, which* ***is to remove the appellate remedy and thereafter, a further second appeal****. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.*
>
> *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,*

[5] (2022) 6 SCC 30

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.*

xxx

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)*

> *"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]

28. The Eviction Petition was filed by the Respondents/landlords in the year 2010 and after 14 years, an eviction order was passed after a complete trial in the matter. This Court has examined the Impugned Order and finds no reason to interfere with the same.

29. For the reasons stated above, the present Petition is dismissed. Pending application stands closed.

30. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JANUARY 10, 2025/jn/*/ha/*r *Click here to check corrigendum, if any*

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