



2025:DHC:1377



\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 12.02.2025*+ **RC.REV. 191/2017, CM APPL. 15344/2017, CM APPL. 15345/2017, CM APPL. 8948/2018**

AMARCHAND

.....Petitioner

Through: Mr. Sourabh Gupta, Mr. Puneet
Yadav, Ms. Priya Mittal, Advs.

versus

RAKESH KUMAR

.....Respondent

Through: Mr. Shekhar N., Adv.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed by the Petitioner/tenant impugning an order dated 23.12.2017 passed by Ld. Rent Controller, Dwarka District Court, Delhi [hereinafter referred to as 'Impugned Order']. By the Impugned Order, the Eviction Petition of the Respondent/landlord was allowed after a complete trial was conducted in the matter. The premises in issue is one built-up shop bearing No.835/1 ground floor with underneath and without roof right, admeasuring 10.0332 sq. mtrs. Of Municipal Corporation of Delhi forming part of property no.835, Haibat Pura, Som Bazar, Najafgarh, New Delhi [hereinafter referred to as 'subject premises'].

2. Learned Counsel for the Petitioner/tenant has raised one primary contention before this Court. Learned Counsel submits that the



2025:DHC:1377



Respondent/landlord has availability of alternate suitable accommodation with him. More specifically, it is contended that two shops bearing no. 9-10 and 11 in property No.834-835, Haibat Pura, Som Bazar, Najafgarh, New Delhi [hereinafter referred to as “Shop No. 9-10 and 11”] are available with the Respondent/landlord. In support of his contention, learned Counsel for the Petitioner submits that the Respondent/landlord has contended that Shop No. 9-10 and 11 are not available with him , however, neither a registered lease deed nor any electricity bills were placed on record by the Respondent/landlord evidencing the transfer of title of Shop No. 9-10 and 11. Thus, it is the case of the Petitioner/tenant that the alternate premises were available for the use of Respondent/landlord.

2.1 Learned Counsel for the Petitioner seeks to rely upon the evidence of PW-3 and PW-4 to submit that in their cross-examination, PW-3 and PW-4 were not able to prove that Shop No. 9-10 and 11 are owned by them. Learned Counsel further seeks to rely upon the Impugned Order to submit that the Impugned Order has not dealt with the aspect of the sale of these shops in accordance with law.

3. Learned Counsel for the Respondent/landlord, on the other hand, refutes the contentions of the Petitioner/tenant. In the first instance, he submits that the Petitioner/tenant, in his written statement, had admitted that the two shops bearing no. 9-10 and 11 are not available with the Respondent/landlord. Learned Counsel seeks to rely upon paragraph 30 of the written statement of the Petitioner/tenant wherein it is stated that these shops are under the tenancy of (1) Ajay Bartan Bhandar and (2) P.K. Enterprises. Thus, it is contended that these shops are in any event not available as alternate suitable



2025:DHC:1377



accommodation.

3.1 Learned Counsel for the Respondent/landlord further submits that so far as concerns the challenge to the sale of these two shops by the Respondent/landlord, the same is without any merit. Learned Counsel submits that the Respondent/landlord had produced affidavits in evidence of the purchasers of Shop No. 9-10 and 11 as PW-3 and PW-4 respectively, wherein it was stated by them that these shops had been purchased by them several years ago and that the sale was made more than five years prior to filing of the Eviction Petition.

3.2 Learned Counsel additionally submits that the Petitioner/tenant is not in a position to dispute or challenge the ownership of the other premises, which are neither owned nor in tenanted by him

4. As stated above, the Eviction Petition filed by the Respondent/landlord and thereafter, the Application for Leave to Defend/contest was allowed by the learned Trial Court on 21.12.2013 and after a complete trial was conducted in the matter, the Impugned Order was passed by the learned Trial Court. So far as concerns the aspect of landlord-tenant relationship and ownership of the subject premises, no real challenge has been placed by the Petitioner/tenant. In any event, the ownership of the subject premises is admitted by the Petitioner/tenant and rent receipts were placed on record before the learned Trial Court evidencing the landlord-tenant relationship.

4.1 The learned Trial Court examined this aspect of the matter and found that the challenge to the ownership is perfunctory at best, given the fact that the subject premises have devolved upon the Respondent/landlord from his



grandmother. No challenge to the landlord-tenant relationship has been meted out by the Petitioner/tenant before this Court .

5. On the aspect of *bona fide* requirement, the Respondent/landlord as set out by the Respondent/landlord is that the subject premises is for the use of the Respondent/landlord's son to run his business of repair of gas and kitchen appliances. It was contended that earlier this was being run from shop No.843A, Najafgarh, New Delhi which was disrupted due to the termination of his tenancy from the said shop.

5.1 The learned Trial Court has discussed the *bona fide* need of the Respondent/landlord in detail and found that the need of the Respondent/landlord would not be controverted by the Petitioner/tenant. The relevant extract of the Impugned Order is reproduced below:

*“26. The-next aspect relates to the bonafide requirement projected, by the petitioner. Now, apart from denying the said requirement of the petitioner to run the business of repair of gas and kitchen appliances, the respondent could not controvert in any good measure the deposition of the petitioner (PW-1) to the effect that he had been previously running the said business from shop No. 843 A, Najafgarh, New Delhi-110043. **The petitioner proved on record the copy of the notice dated 01.01.2013 (E.x.PW1/4) sent by his landlady and also the letter dated 30.03.2013 (Ex. PW1/5) issued by the landlady regarding handing over of the shop by the petitioner to her.** These documents established that the petitioner was in a well-established business which got disrupted by termination of his tenancy by his landlady. **This circumstance by itself created a pressing need for the petitioner to secure a suitable place of business/shop to carry on the business thus disrupted.** The present petition was filed in July 2013 i.e. in reasonable proximity from the date when his previous tenancy was terminated.*

*27. It is now well recognised that the landlord is the best judge of his requirement and his determination of using his own property for a particular use cannot be a choice dictated by the tenant. In other words, the landlord is the best judge of his requirement. **Equally, the respondent cannot be permitted to continue in a shop qua which***



bonafide requirement has been expressed only because it would lead to hardship to him. Strife for the tenant is not a reason to deny relief to the petitioner.

28. **In light of the above principles, it is thus the sole description of the petitioner to use the shop under his ownership i.e. the tenanted shop in question for continuing the business of repair of gas and electrical appliances.**

29. Here, the deposition of the respondent i.e. DW-1 is relevant in as much as during cross examination a CD (Ex. PW1/6) was played to him by the counsel for the petitioner wherein it is apparent that the petitioner is presently running his business only from a narrow gallery in his use. **Apparently, having been subjected to adversity by termination of his lease by a previous landlady, the petitioner has been reduced to running his rather modest business of repair from a frugal environment/space. This circumstance also corroborates the bonafide requirement of the petitioner for securing the tenanted shop in question.**

30. **On the preponderance of probabilities, the court concludes that the petitioner has established the stated bonafide requirement for the tenanted shop in question.**”

[Emphasis Supplied]

5.2 The learned Trial Court after an examination of the evidence placed on record, found that after Respondent/landlord's son was running his business as a tenant to a third party and after termination of such tenancy, he had handed back possession of that premises to his landlord. Subsequently, the business of Respondent/landlord's son had suffered as he could only afford a smaller place. Thus, the need of the Respondent/landlord was for his son which had been proved to be bonafide. This Court does not find any infirmity with finding of the learned Trial Court which has been given after the examination of the evidence placed before it.

6. The only challenge that is raised by the Petitioner/tenant which is regarding the availability of Shop No. 9-10 and 11. The same was raised by



the Petitioner/tenant before the learned Trial Court as well. The record reflects that the purchasers of Shop No. 9-10 and 11 have filed separate Affidavits in evidence before learned Trial Court and had appeared before the learned Trial Court to give their evidence. The learned Trial Court, after the examination of the evidence and material on record, has given a finding that there is no alternate suitable accommodation available with the Respondent/landlord.

7. As stated above, it is the case of the Petitioner/tenant that shops bearing no. 9-10 and 11 were available with the Respondent/landlord as alternate suitable accommodation on two grounds. Firstly, that the sale to the purchasers of these shops is not perfected by way of a registered sale deed and secondly, no electricity bills were placed on record.

8. These submissions of the learned Counsel of the Petitioner/tenant are without any merit. The Respondent/landlord has not only filed evidence by way of an Affidavit of both the purchasers of Shop No. 9-10 and 11 i.e. PW-3 and PW-4, these purchasers were also present for cross-examination before the learned Trial Court. The Affidavits evidence state that PW-3 Mr. Ajay Paruthi had purchased shop 9 in the year 2002 and shop no. 10 thereafter. [While Smt. Suman Arora, wife of PW-4 – Mr. Praveen Kumar Arora had purchased shop 11 in the year 2001. It is apposite to set out the extract of the evidence of PW-3 and PW-4, which sets this out, as below:

“Evidence of PW-3:

2. That I had purchased the Shop No. 9 in Property No. 834, area measuring 8 Sq.Yds. (approx.), without roof rights, out of Khasra No. 53, situated within the limits of MCD of Old Najafgarh Township, Delhi, abadi known as Haibatpura, Najafgarh, New Delhi-110043 in the year 2002 from Smt. Ajit Devi by virtue of G.P.A., Will, etc. in the presence of witnesses and the same is exhibited as PW3/1.



3. That I have been enjoying the peaceful ownership and possession of the abovesaid Shop No. 9.

4. That I had also purchased the Shop No. 10, in property No. 834, area measuring 21 Sq.Yds. without roof rights, out of Khasra No. 53, situated within the limits of MCD of Old Najafgarh Township, Delhi, abadi known as Haibatpura, Najafgarh, New Delhi-110043 from Sh. Praveen Kumar Arora S/o Sh. Ram Kishan, R/o R-53, Lokesh Park, Near Subzi Mandi, Najafgarh, New Delhi-110043 and enjoying the peaceful ownership and possession of the abovesaid shop without any interruption.....

Evidence of PW-4:

2. That my wife Smt. Suman Arora had purchased the Shop No. 11, in property No. 834-835, Haibat Pura, Som Bazar, Najafgarh, New Delhi, area measuring 18 Sq.Yds. (approx.), without roof rights, out of Khasra No. 53, situated within the limits of MCD of Old Najafgarh Township, Delhi, abadi known as Haibat Pura, Najafgarh, New Delhi-110043 from Sh. Rakesh i.e. the petitioner son of late Sh. S.P. Rishi, by virtue of registered sale deed which is exhibited as PW4/1 and since then I have occupied the said shop peacefully and without any interruption.....”

[Emphasis Supplied]

8.1 In addition, the cross-examination of PW-3 shows that he has taken a loan of Rs.7 lakhs from Syndicate Bank against shop No.9-10 and the original documents of the said shop are deposited with the Bank as a security. The relevant extract of the cross-examination of PW-3 is reproduced below:

“On SA

I tender my evidence by way of affidavit vide Ex. PW3/A which bears my signatures at point 'A' and 'B'. I also rely upon documents i.e. GPA Ex. PW3/1 and will Ex. PW3/2 (which are referred to as Ex. PW3/1). The originals of the said GPA and will are deposited by me with Syndicate Bank, Najafgarh, Delhi as a security for a loan of Rs. 7,00,000/- obtained by me around 4-5 years back. I am unable to produce the originals as the same shall be returned to me only after I repay the loan.

xx

xxx

xxx

xxx

I have a business of sale and purchase of utensils. I have studied upto class 8th. I cannot understand English. I know the contents of my



affidavit. I am the friend of the petitioner and he has requested me to appear before the Hon'ble court for evidence. It is wrong to suggest that I am deposing falsely at the behest of the petitioner. **I had purchased the shop No.9 in the year 2002. I do not remember the exact date of purchasing the said shop.** I do not know the size of the property No.834 which is owned by Smt. Ajit Devi, grand mother of the petitioner. **Ajit Devi had executed only a GPA for sale of the shop No. 9 in my favour and no other document was executed. No sale deed was executed for the sale of shop no.9. No agreement to sell was executed regarding the shop no.9. I have not filed any electricity or water bill to prove the possession of shop No. 9. I have purchased shop No.10 from Praveen Kumar. I have not filed any document for purchase of shop No. 10 from Sh. Praveen Kumar.** I do not remember which documents were executed in my favour by Praveen Kumar regarding purchase of shop No. 10. I am in possession of shop No. 9 since 2002. I do not remember when I had purchased shop No. 10 from Sh. Praveen Kumar. I have not filed any documents like water, electricity bills to prove the possession of the shop No. 10 in my favour. The petitioner is running his business from the lane which is 2½-3 feet of his house. Earlier the petitioner was running his business from a tenanted shop bearing No. 843, Haibat Pura, Najafgarh, New Delhi. The petitioner is not having his own shop. It is wrong to suggest that the GPA Ex. PW3/1 and will Ex. PW3/2 are forged and fabricated documents and have been created only to defeat the right of the respondent. It is wrong to suggest that I have not taken any loan from Syndicate Bank. It is wrong to suggest that Ex. PW3/1 and Ex. PW3/2 are deposited with the Syndicate Bank. **It is wrong to suggest that I am purposely and intentionally not producing documents Ex. PW3/1 and Ex. PW3/2 as they are forged and fabricated documents. It is wrong to suggest that I have not purchased the shop No. 9 and 10 from Smt. Ajit Devi and Sh. Praveen Kumar.** It is wrong to suggest that sale of shops No. 9 and 10 are bogus transactions which have been created only to defeat the right of the respondent. It is wrong to suggest that I am deposing falsely”

[Emphasis Supplied]

8.2 The cross-examination of PW-4 shows that PW-4 has purchased the shop no. 11 from the Respondent/landlord many years ago and he has further sold the said shop to a third-party. The relevant extract of the cross-examination of PW-4 is reproduced below:

“I am one of the neighborer of petitioner and am also a friend. I am today appearing in the court at the instance of the petitioner. Petitioner is the owner of **shop no. 11. I have purchased the said shop from the**



petitioner. I can not recall how much amount was paid against the sale deed for purchase of shop no. 11 by me to the petitioner. Vol. Since 6 years have lapsed. I have further sold shop no. 11 to one Sh. Sandeep. However, I am a tenant in the said shop. I have not filed the said documents pertaining to sale of the said shop on record.....”

[Emphasis Supplied]

8.3 In addition, the Respondent/landlord has also placed on record documents evidencing the transfer of Shop No. 9-10 and 11 which include GPA, Will, possession letter etc. which have been exhibited by the learned Trial Court.

9. The Petitioner/tenant has no legal basis to challenge the title of a third-party. In any event, concededly, no civil proceedings have been initiated by the Petitioner/tenant till today, for such a challenge, despite the pendency of the Eviction Petition which was filed in the year 2013. The learned Trial Court examined the documents and evidence placed on record and found that the Respondent/landlord has sold the shops to a third-party and thus there was no alternate suitable accommodation available with the Respondent/landlord. The relevant extract of the Impugned Order is reproduced below:

“31. The only other challenge to the petition from the respondent was on the ground of alternate accommodation being available with the petitioner. The cross examination of PW-1 is quite material in this context. The relevant extract is reproduced below:-

“The oral partition was effected before the year 2000 but I do not remember the exact date. Out of the four shops which came into the share of my father after the oral partition, one shop was sold by my mother whereas my grandmother sold another shop. The third shop came to my share whereas the fourth shop was also transferred to me by my grandmother through documents in the nature of GPA etc. I sold the two shops which came to my share in the year 2008. I had filed documents of sale of these two shops.”



32. Apparently four shops did come to the share of the father of the petitioner in the family partition. However, the petitioner was candid enough to reveal the fate of all shops. The above assertion of PW-1 was then not even denied by suggestion nor any evidence led by the respondent to establish that any of these four shops continued to be available with the petitioner. In fact, in her own evidence by way of affidavit, the grandmother of the petitioner i.e. Ajit Devi (PW-2) stated as under:

"That the shop No. 9,10,11 and 12 in property No.834-835, Haibat Pura, Som Bazar, Najafgarh, New Delhi had been come to the share of my elder son namely Shish Pal and his family and all of these four shops have been sold out by my son Shish Pal and his family with my assistance in order to meet the ends of their needs."

33. PW-2 then denied the suggestions during cross examination that she had not sold shops No. 9,10,11 and 12.

34. The sale of shops No.9 and 10 was asserted by PW-3 i.e. Ajay Paruthi whereas the sale of shop No. 11 was confirmed by PW- 4 namely Praveen Kumar Arora. PW-4 also claimed to be in possession of shop No. 12. Again, the respondent could not lead any evidence to show that either of shops No. 9,10,11 and 12 are currently in the ownership or possession of the petitioner."

[Emphasis Supplied]

9.1 It is also apposite to extract paragraph 30 of the Written Statement of the Petitioner/tenant which sets out clearly, that the Respondent/landlord does not have any alternate suitable accommodation. Paragraph 30 of the written statement of the Petitioner/tenant is reproduced below:

"30, Further, the four shops which allegedly came to the share of the Petitioner family are presently under tenancy of (1) Ajay Bartan Bhandar and (2) P.K Enterprises who have two shop each as tenants and are in possession of the said two shops. The said shop form part of Property No.835, Haibatpura, Najafgarh, New Delhi. It is submitted that as the title documents with respect to the properties are in possession of the Petitioner, the same cannot in any circumstance be produced by the Respondent. However, the Respondent can examine the tenants in the said Shop under oath to verify that the said properties are owned by the Petitioner. Therefore, it is evident that



there is no bona-fide need and requirement of the Petitioner but the present petition has been filed only to harass and take back the possession of the Shop with ulterior motives.

[Emphasis Supplied]

10. In the present case it is the contention of the Petitioner/tenant that Shop No. 9-10 and 11 were available with the Respondent/landlord. However, as discussed above, the purchasers of Shop No. 9-10 and 11 have stepped into the witness box before the learned Trial Court and have established the fact that Shop No. 9-10 and 11 have been sold to them. The Petitioner/tenant has stated that these sales are not supported by registered documents and the Respondent/landlord has not filed the electricity bills of these shops. As stated above, a challenge to the title of these shops can only be made by filing civil proceedings before a Court of competent jurisdiction, which admittedly has not been done. The Petitioner/tenant has also admitted in its pleadings that these shops are tenanted. Thus, clearly these shops are not available for the use of the Respondent/landlord.

11. The jurisdiction of this Court is only revisionary in nature and limited in scope. The Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*¹ while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the Act has held that this is a conscious omission. It was held that 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 face

¹ (2022) 6 SCC 30



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. This has been elucidated at length by Supreme Court in *Abid-Ul-Islam* case in the following manner:

“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, 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 xxx xxx xxx xxx

25.... ***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.***

xxx xxx xxx xxx xxx



It was thus held, that though the scope of revisional powers of the High Court was very limited one, but even so in examining the legality or propriety of the proceedings before the Rent Controller, the High Court could examine the facts available in order to find out whether he had correctly or on a firm legal basis approached the matters on record to decide the case. It has also been held, that pure findings of fact may not be open to be interfered with, but in a given case, if the finding of fact is given on a wrong premise of law, it would be open to the Revisional Court to interfere with the same.”

[Emphasis supplied]

12. As stated above, the revisionary jurisdiction of this Court is limited and circumspect. All that the Court is required to examine, in terms of the judgment of the Supreme Court in *Abid-ul-Islam* case, is whether there is absence of adjudication for interference by this Court or any error apparent on the face of the record. The Learned. Trial Court has examined in detail the challenge laid out by the Petitioner/tenant and found that the Respondent/landlord has been able to prove the ingredients of S. 14 (1) (e) of the Delhi Rent Control Act, 1958 . The examination by this Court on the challenge by the Petitioner/tenant doesn't show otherwise.

13. In view of the above discussions, this Court finds that no ground for interference has been made out by the Petitioner/tenant. The Revision Petition is accordingly dismissed. All pending Applications stand closed.

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

TARA VITASTA GANJU, J

FEBRUARY 12, 2025/jn

[Click here to check corrigendum, if any](#)