



2025:DHC:1741



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

Date of Decision: 25.02.2025

+ **RC.REV. 658/2015**

SUDESH & ANR

.....Petitioners

Through: Mr. Vaibhav Sinha, Adv.

versus

JITENDER KUMAR BHARDWAJ & ORS

.....Respondents

Through: Mr. Ikrant Sharma, Mr. Saksham Mittal, Mr. Ira Arora, Mr. Neeraj Sharma Advs.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM Appl.6451/2025*[Seeking condonation of delay]*

1. This is an Application filed on behalf of the Petitioners/tenants seeking condonation of delay of 22 days in filing the Application for restoration of the present Petition.

2. For the reasons as stated in the Application, the delay is condoned.

3. The Application stands disposed of.

CM Appl.6450/2025*[For restoration]*

4. This is an Application filed on behalf of the Petitioners/tenants seeking restoration of the present Petition which was dismissed by this Court by an order dated 05.12.2024.



5. Learned Counsel for the Respondents/landlords submits that the matter is pending for 10 years and in the interest of expediency, he does not object if the prayers made in the present Application are allowed.

6. The Application stands disposed of.

RC.REV. 658/2015

7. The present Petition has been filed on behalf of the Petitioners/tenants impugning the order dated 27.07.2015 [hereinafter referred to as “Impugned Order”] passed by the learned SCJ-cum-RC, New Delhi District, Patiala House Courts, New Delhi with respect to the premises i.e., shop in WZ-84, Mohan Nagar, Pankha Road, New Delhi-110046 admeasuring 8’X12’ as shown in red colour in the site plan annexed with the Eviction Petition [hereinafter referred to as “subject premises”]. By the Impugned Order, the leave to defend Application filed by the Petitioners/tenants has been dismissed.

8. The record reflects that the present Petition was filed in the year 2015 and a Coordinate Bench of this Court on 11.12.2015 passed an order staying the operation of the Impugned Order. The order dated 11.12.2015 has continued thereafter from time to time, however it is not disputed that no user and occupation charges have been paid by the Petitioners/tenants in terms of the judgement of the Supreme Court in *Atma Ram Properties (P) Ltd. vs Federal Motors (P) Ltd.*¹.

8.1 The record also reflects that after obtaining interim protection from this Court, the Petitioners/tenants appeared from time to time, however, on

¹ (2005) 1 SCC 705



various dates, there was no presence on behalf of the Petitioners/tenants. In view of the fact that there was no presence on behalf of the Petitioners/tenants on two dates, this Court dismissed the Petition in default and for non-prosecution on 05.12.2024.

9. The only ground that has been taken by the learned Counsel for the Petitioners/tenants in the Application for restoration is that the son of the Petitioner /tenant who was looking after the matter and the previous lawyer was engaged by him, however the son of the Petitioner expired in a road accident on 07.09.2024 and thereafter only, when they came to know that the matter has been dismissed in default, the Application for restoration was filed.

10. Learned Counsel for the Petitioners/tenants submits that he was subsequently engaged in the matter hence he is unaware of the fact that as to why there was no presence on behalf of the Counsel of the Petitioners/tenants on the previous dates.

10.1 Be that as it may, this Court has also considered it apposite to examine the matter on merits. This Court had after examining the matter on 03.02.2025 passed the following directions:

“7. Learned Counsel for the Petitioners/tenants has raised two contentions. In the first instance, he submits that the subject premises is within Sagarpur area and as per the provisions of Section 1(2) of the Delhi Rent Control Act, 1985 [hereinafter referred to as ‘the DRC Act’] the DRC Act is not applicable to the present Petition.

7.1 Secondly, it is contended by the learned Counsel for the Petitioners/tenants that the Respondents/landlords are not the owners of the subject premises.

8. Learned Counsel for the Respondents/landlords submits that the matter is



being dragged and delayed by the Petitioners/tenants and has been pending for almost 10 years before this Court. He submits that so far concerns the landlord-tenant relationship, the same is not disputed.

8.1 Learned Counsel for the Respondents/landlords seeks to rely upon paragraph 11 of the Impugned Order wherein the learned Trial Court has given a finding that the Petitioners/tenants have in another Petition filed between *inter se* the parties admitted to the landlord-tenant relationship.

8.2 On the aspect of the challenge to the address of the Petitioners/tenants, learned Counsel for the Respondents/landlords submits that the same is without any merit. He submits that the same challenge has been adequately dealt with by the learned Trial Court. Learned Counsel for the Respondents/landlords seeks to rely upon the Eviction Petition wherein it is stated that the subject premises in Mohan Nagar, Pankha Road area and this area is not barred by jurisdiction under Section 1(2) of the DRC Act.

9. As stated above and on the basis of the admission of the Petitioners/tenants in another Petition, this Court finds no infirmity with the Impugned Order on the aspect of landlord-tenant relationship between the parties.

10. The *bona fide* requirement of the Respondents/landlords, is for the wife of Respondent No.1 for setting up a beauty parlour shop and the same is not being challenged before this Court.

11. On the aspect of alternate suitable accommodation, the only alternate accommodation set out in the Application for Leave to Defend, is two rooms on the third floor, to which the learned Trial Court has given a finding that these rooms are not available as they have been rented out and are in any event not suitable for the Respondent No.3 to meet his requirement.

12. On the jurisdictional issue, the Eviction Petition clearly sets out that it is for a premises in Mohan Nagar, Pankha Road area.

13. *Prima facie*, the contentions of the Petitioners/tenants are without any merit.....”

10.2 This Court had on the last date of hearing given a *prima facie* view that this Court does not find any infirmity with the Impugned Order. Submissions were raised by the learned Counsel for the Petitioners/tenants, on that date and time was sought by the parties to file their respective



written synopsis. No written synopsis have been filed by either party.

11. As is stated above, the only contention that is raised by the Petitioners/tenants before the Court is that the Rent Controller has no jurisdiction to entertain the present Petition as the subject premises is situated in Sagarpur. For this submission, learned Counsel for the Petitioners/tenants seeks to rely upon a document (Ration Card) which was on record before the learned Trial Court as well.

12. Learned Counsel for the Respondents/landlords, on the other hand, submits that the same contention was raised by the Petitioners/tenants before the learned Trial Court which has been adequately dealt with by the learned Trial Court in the Impugned Order. Reliance is placed on paragraph 10 of the Impugned Order in this behalf which is extracted below:

*“10 During arguments it is argued by Ld. counsel for respondents that the suit property is situated in Sagarpur, which does not falls under the Delhi Rent Control Act, hence present court has no jurisdiction to try the present dispute. On the contrary, it is submitted by the counsel for petitioners that **the suit property falls in Khasra No. 414/348/2, Mohan Nagar, Village Nangal Raya, New Delhi and not Sagarpur**, hence the present court has jurisdiction to try the present dispute. Counsel for petitioner has also placed on record the copy of gazette notification dt. 01.04.1979. **Since the suit property is situated at Mohan Nagar, Pankha Road and falls within the district of Nangal Raya and the rate of rent is below Rs. 3500/-, present court has jurisdiction to try this petition.**”*

[Emphasis Supplied]

12.1 Learned Counsel for the Respondents/landlords further submits that despite the interim protection being granted to the Petitioners/tenants, no user and occupation charges have been paid during the pendency of the present Petition.

13. In view of what has been discussed above, this Court deems it



apposite to affix user and occupation charges in the sum of Rs. 5,000/- per month. Accordingly, this Court deems it apposite to pass the following directions:

- (i) The user and occupation charges for the period commencing from 27.01.2016 till today shall be paid by the Petitioners/tenants at the rate of Rs.5,000/- per month;
- (ii) The payment of user and occupation charges as set out in (i) above shall be paid by the Petitioners/tenants on or before 30.04.2025 to the Respondent.

14. All payments shall be made into the bank account of the Respondents/landlords. The details of the bank account shall be provided by the learned Counsel for the Respondents/landlords to the learned Counsel for the Petitioners/tenants on his email address within three days.

15. The learned Trial Court has examined the gazette notification and found that the subject premises is situated in Mohan Nagar, Pankha Road. The Eviction Petition which has been filed by the Respondents/landlords also states the address of the property is Mohan Nagar, Pankha Road. Given the aforesaid, this Court finds no infirmity with the Impugned Order.

16. In any event, the landlord-tenant relationship between the parties and ownership is not disputed. Learned Trial Court has given a finding that the Petitioners/tenants have in another Petition filed *inter se* the parties admitted that the subject premises was let out to the grandfather of the Petitioner/tenants and the tenancy has thereafter been inherited by the Petitioners/tenants. The relevant extract of the Impugned Order is



reproduced below:

*“11. In the present case the relationship of landlord and tenant is disputed by the respondents. It is stated by respondents that petitioners are not the landlord /owner of the tenanted premises. **On the contrary, petitioners have stated that they are the owners and landlord in respect of tenanted premises, having inherited the same from their father Sh. Inder Lal Bhardwaj after his death on 11.07.2000. The Ld. counsel for petitioners have also relied upon the reply of respondent no. 1 in another petition u/s. 14 (1) (a) of the Act between the parties, wherein he has stated that tenanted premises was let out to his grandfather and upon his death it was taken over by his father and upon death of his father, his mother has taken over the shop. Respondent no. 2 is the mother of respondent no. 1. Thus there is no dispute to the fact that respondents are merely a tenant in the tenanted premises and the tenancy has been inherited from their predecessor in interest. Respondents in their entire leave to defend application alongwith accompanied affidavit have not disclosed as to who is the owner, if not the petitioners.**”*

*11.1 On the contrary, petitioners have also placed on record the copy of sale deed wherein the name of father of petitioners is stated as one of the purchaser. It is not disputed that petitioners are the sons and Legal heirs of Late Sh. Inder Bhardwaj. **It is no more res integra that the petitioners have to only show that they are something more than the tenant. After the death of the father of petitioners, they being the legal heirs have become the owners and landlords in respect of the tenanted premises. No triable issue as such is raised in this regard by the respondents.**”*

[Emphasis Supplied]

17. The need as set out by the Respondents/landlords in the Eviction Petition is for the wife of the Respondent No.3 to open the beauty parlour to supplement the income of her family. It is further stated that the wife of Respondent No.3 has done a professional course for the purposes of setting up her own beauty parlour. It has further been averred by the Respondents/landlords that the subject premises is best suited for the need since it is situated on the road facing a posh locality. Since the Petitioners/tenants did not dispute the *bona fide* need as set out by the



Respondents/landlords learned Trial Court held that the same is *bona fide*.

18. As far as availability of alternate accommodation with the Respondents/landlords is concerned, the only alternate accommodation set out in the Application for Leave to Defend, is two rooms on the third floor, to which the learned Trial Court has given a finding that these rooms are not available as they have been rented out and are in any event not suitable for the wife of Respondent No.3 to meet her requirement. As stated above, the subject premises is situated on the ground floor, road facing an upmarket area and would be best suited for setting up of a beauty parlour.

19. The provisions of Section 14(1)(e) of the Delhi Rent Control Act, 1958 have been provided for with care by the Legislature. On the aspect of availability of alternate suitable accommodation, it is not only that the accommodation is to be alternate, it is also required to be available and suitable. The Supreme Court in *Shiv Sarup Gupta v. Mahesh Chand Gupta*² has held for an eviction petition to fail on the ground of alternate suitable accommodation being available, the other accommodation must be suitable and convenient in all respects as the tenanted accommodation from which the landlord seeks eviction of. It has been held that:

*“14. The availability of an alternative accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. **Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation,** may have an adverse bearing on the finding as to the bona fides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. **Secondly, another principal***

² (1999) 6 SCC 222



ingredient of clause (e) of sub-section (1) of Section 14, which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available then the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternative residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternative accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come.”

[Emphasis Supplied]

20. 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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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



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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]

21. In view of the foregoing discussions, the Petition is dismissed. However, the Petitioners/tenants are directed to make the payment of user and occupation charges in terms of the timeline as set out by the Court.
22. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

FEBRUARY 25, 2025/r/pa

Click here to check corrigendum, if any