



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

% *Date of decision: September 10, 2025*

+ **RC.REV. 245/2025 & CM APPL. 51574/2025-Stay**

SHRI JUGESH KUMAR

.....Petitioner

Through: Ms. Shazia, Advocate with
petitioner in person.

Versus

SMT OMWATI THROUGH LRS

.....Respondent

Through: Mr. Tarun Agarwal, Advocate
(Through VC)

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (Oral)

1. The respondent/ landlord¹ filed an Eviction Petition under *Section 14(1)(e)* read with *Section 25B* of the Delhi Rent Control Act, 1958² before the learned Additional Rent Controller, Central, Tis Hazari Courts, Delhi³, seeking eviction of the petitioners/ tenant⁴ from the shop shown in red colour in the site plan of the property bearing No.6259-60, Kucha Shiv Mandir, Naya Bans, Delhi⁵.

2. It was the case of the landlord before the learned ARC therein that her husband was the absolute owner of two shops shown in blue and red colour in the Site Plan of the aforesaid property. Upon his demise, in terms

¹ hereinafter referred to as "*landlord*"

² hereinafter referred to as "*DRC Act*"

³ hereinafter referred to as "*ARC*"

⁴ hereinafter referred to as "*tenant*"

⁵ hereinafter referred to as "*subject premises*"



of the mutual family settlement, the shop marked in blue was given to one of her son namely Mr. Deepak Gupta, and thereafter, Mr. Deepak Gupta and his family had no concern with the landlord or her other children. As such, the *landlord tenant relationship* between the parties herein.

3. Further, it was the case of the landlord that after the pandemic of Covid-19, her two sons, namely, Mr. Sanjeev Gupta and Mr. Shiva Gupta and her daughter-in-law Poonam Gupta, were rendered without any source of income and had since been living in a state of hand-to-mouth existence. As such, they were completely dependent upon the landlord for sustenance and therefore, she was in *bona fide requirement* of the subject premises for starting a business of the dairy products and grocery items for her family members. That apart, it was also her case that apart from the subject premises, neither the landlord nor her family members were having any other commercial *alternate accommodation* for the said requirement.

4. Upon service of summons, the tenant filed an application seeking leave to defend wherein not only did he admit that his late father had attorned to the tenancy of the landlord's late husband Mr. Ashok Kumar, he also admitted that he filed an application under *Section 27* of the DRC Act, being DR/126/2022 for depositing rent *qua* the subject premises before the learned ARC-2(Central), Tis Hazari Courts, which was allowed *vide* order dated 22.07.2023.

5. However, the tenant contended that the sons and daughter-in-law of the landlord were not dependant on her and consequently, there was no *bona fide requirement* of the subject premises, as also that she was having other shops available with her on the ground floor of the same property which were more suitable for the stated requirement.



6. In response thereto, the landlord filed her reply controverting the averments made therein.

7. After hearing both parties, by virtue of the order dated 21.02.2025⁶ the learned ARC after holding that there, *admittedly*, existed a landlord-tenant relationship between the parties therein; as also that the tenant had failed to raise any triable issue either on the aspect of *bona fide requirement* or on the aspect of *alternative accommodation*, dismissed the application for leave to defend of the tenant and consequently allowed the eviction petition of the landlord in her favour thereby directing the tenant to vacate the subject premises.

8. Hence the present revision petition seeking setting aside of the impugned order.

9. On the last date of hearing i.e., 03.09.2025, though Ms. Shazia, learned counsel for tenant, present along with the tenant himself submitted that she will be communicating with the learned counsel for the landlord *qua* the time period required for vacating the subject premises, as also the user and occupation charges to be paid during such period, however, today, Ms. Shazia submits that since there was no consensus *qua* the said proposal, she seeks to address arguments on merit.

10. As such, this Court has proceeded to hear the present matter for final disposal of the same.

11. Ms. Shazia submits that following the demise of landlord's husband, since there was an *inter se* ownership dispute between her family

⁶ hereinafter referred to as "*impugned order*"



members, the tenant was unaware as to who was the actual owner of the subject premises.

12. Ms. Shazia further submits that there was no *bone fide requirement* of the landlord, as neither her late husband during his lifetime nor her son, respondent no.3 in the Legal Notice dated 17.11.2022 ever mentioned about such requirement. In any event, the subject premises, being a small shop, was not suitable to satisfy the requirement of the landlord and since the landlord had other shops on the ground floor of the same building, which are more suitable to meet the requirement, there were *alternative accommodation* available.

13. Ms. Shazia then submits that although she withdrew the application for placing on record additional document in the form of photographs before this Court, however, relying upon them she submits that since the respondent nos.2 and 3 were presently running their independent business, there was no *bone fide requirement* of the landlord as there were *alternative accommodation* available with her.

14. In view thereof, and under the facts and circumstances involved Ms. Shazia submits that the learned ARC has erred in dismissing the application seeking leave to defend of the tenant, as also that the tenant was able to raise triable issues therein as well.

15. *Per contra*, Mr. Pranay Trivedi, learned counsel for the landlord submits that being the landlord after the demise of her husband, and as the tenant had been attorned as such by her late husband, there existed a *landlord tenant relationship* between the parties.

16. Mr. Pranay Trivedi further submits that the landlord had no source of income. In fact, since pandemic her two sons and daughter-in-law were



also facing a financial crunch, due to which they are completely dependent upon her. For this, she was keen to start a business of the dairy products and grocery items for her family members, which was a sufficient reason for her being in *bona fide requirement* of the subject premises. He submits that the landlord was not having any other *alternate accommodation* other than the subject premises.

17. As such, Mr. Pranay Trivedi submits that there is nothing wrong in the impugned order passed by the learned ARC.

18. Heard learned counsel for the parties, as also gone through the pleadings and documents on record as well.

19. That being said, this Court shall proceed to examine the present petition on the touchstone of the three prime factors to be considered while dealing with eviction proceedings under *Section 14(1)(e)* of the DRC Act namely, *[i]* there being a *landlord tenant relationship* between the parties, *[ii]* there being a *bona fide requirement* of the subject premises by the landlord, and *[iii]* there being no *alternative accommodation* available with the landlord.

20. This Court finds that it has never been the case of the tenant that there was no *landlord tenant relationship* between the parties. Thus, the same stood established, more so, since it was the admitted position of the tenant that his late father had attorned to the landlord's late husband and maintained his status of tenancy, and thereafter he had himself filed an application under *Section 27* of the DRC Act for depositing rent *qua* the subject premises before the learned ARC.

21. *De hors* that, Ms. Shazia has now sought to raise a doubt *qua* the existence of *landlord tenant relationship* between the parties in view of



the internal litigations involving the landlord and her late husband's family. The same cannot be allowed in view of the earlier/ uncontroverted stand taken by the tenant himself, and that too before this (revisional) Court. In view thereof, the same is belied. In any event, as per the settled position of law, the landlord was only required to show/ prove that she had a better title than the tenant and not that she was an absolute owner of the subject premises [*Smt. Shanti Sharma v. Smt. Ved Prabha*⁷]. Moreover, *admittedly*, the tenant was paying rent to the landlord.

22. For the above reasons, the submissions advanced by Ms. Shazia qua non-existence of *landlord tenant relationship* between the parties are rejected. Before the learned ARC too, the *landlord tenant relationship* between the parties stood established. The tenant was/ is not able to raise a triable issue qua it.

23. It has always been the case of the landlord that she requires the subject premises for her two sons and daughter-in-law, who, because of the pandemic being rendered without any source of income, were entirely dependent upon her for their sustenance. There was, thus, a *bona fide requirement* of the subject premises by the landlord. Considering that after pandemic there was a considerable/ steep rise in unemployment worldwide as also in India, in the considered opinion of this Court, the landlord being an aged lady of over 70 years, cannot be faulted for her natural parental instinct to ensure that her children could stand on their own feet rather than be left to the uncertainties of life in her absence, especially whence she has the means to do so [*Joginder Pal v. Naval*

⁷ 1987 SCC (4) 193



Kishore Behal⁸].

24. In any event, it is trite that while considering an application for leave to defend in proceedings under *Section 14(1)(e)* of the Act, the Court can rely upon the presumption that the plea of *bona fide requirement* of the landlord is genuine, unless, the tenant adduces sufficient material so as to indicate the existence of any triable issue worthy of consideration. In the present case, the tenant vaguely disputed the above and never filed any material of substance showing to substantiate his case or to show anything contrary thereto. Such bald, evasive and baseless pleadings were of no effect and could not be considered [*Sarla Ahuja v. United India Insurance Co. Ltd.*⁹, *Deena Nath v. Pooran Lal*¹⁰].

25. Therefore, the submissions of Ms. Shazia qua there being no *bona fide requirement* of the subject premises by the landlord are negated. There was/ is no cogent material to suggest the existence of a triable issue on that aspect, warranting allowing of the application for leave to defend of the tenant. Resultantly, the issue of *bona fide requirement* stood/ stands well established as the tenant was not able to raise a triable issue qua it.

26. Regarding existence of an *alternative accommodation* available with the landlord, though, as per tenant she had other shops at the ground floor of the property being 6259-60, Kucha Shiv Mandir, Naya Bans, Delhi, however, the same is contrary to the records before the learned ARC, which reflects that the husband of the landlord and his three brothers, namely Mr. Mitter Singh, Mr. Sunder Lal, Mr. Hazari Lal had

⁸ (2002) 5 SCC 397

⁹ (1998) 8 SCC 119

¹⁰ (2001) 5 SCC 705



entered into a mutual partition/ division between themselves, and as such the husband of the landlord received two shops shown in red and blue colour in the Site Plan and all the other shops were divided amongst his other three brothers. Subsequently, after the death of landlord's husband, the shop shown in blue colour, upon mutual settlement, was given to one of the son of the landlord namely Mr. Deepak Gupta, who with his family had no concern with the landlord or her other children. Interestingly, the averment qua the aforesaid property is of no significance as there is no denial of the mutual settlement by the tenant. The same also cannot be taken into account since the same was a mere bald statement, again with no substantiation [*Baldev Singh Bajwa v. Monish Saini*¹¹].

27. Further, mere availability of an *alternative accommodation* with the landlord was/ is not a criteria for denying relief to her for a suitable accommodation as per her and/ or her family members' legitimate demands. More so, whence it is trite that it is the prerogative of the landlord to select a suitable accommodation as per her requirements, depending upon numerous factors such as size, location, purpose, practicality, access, safety concerns, and/ or like to be determined solely by the landlord herself, and it was/ is not for the tenant to select/ choose another alternative accommodation, if available [*Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*¹², *Ragavendra Kumar v. Firm Prem Machinery*¹³, *Kanhaiya Lal Arya v. Md. Ehsan & Ors.*¹⁴].

28. Therefore, the submissions of Ms. Shazia with respect to there

¹¹ (2005) 12 SCC 778

¹² (1999) 6 SCC 222

¹³ (2000) 1 SCC 679

¹⁴ 2025 SCC OnLine SC 432



being another *alternative accommodation* with the landlord carried no weight. There was/ is no cogent material on the said aspect to suggest the existence of a triable issue warranting allowing of the application for leave to defend of the tenant. Resultantly, the issue of *bona fide requirement* stood/ stands well established as the tenant was not able to raise a triable issue qua it.

29. Interestingly, though Ms. Shazia had filed an application for bringing on record few additional documents in the form of photographs to show that the landlord's sons i.e., respondent nos.2 and 3, were presently running their independent business in two separate shops, however, the same was dismissed as withdrawn with liberty to file afresh *vide* order dated 03.09.2025 and till date, no fresh application has been made.

30. In any event, since this Court is dealing with a revision petition under proviso to *Section 25B(8)* of the DRC Act, wherein, sitting in a supervisory jurisdiction, unless this Court finds an error apparent/ any perverse finding/ any irregularity/ non-following of procedure contrary to natural justice/ a misapplication of law, or the like, the scope of interference is narrow, restricted and limited. This Court is, therefore, to consider the case based on the materials available before the learned ARC at the time of passing the impugned order. Any subsequent fact or material sought to be introduced at this stage cannot be considered, as doing so, would amount to reopening questions of fact which fall exclusively within the jurisdiction of the Rent Controller [*Guru Darshan Mahendru v.*



Vijay Kumar Aggarwal & Anr.¹⁵].

31. Finding no infirmity, illegality or irregularity in the impugned order, there is no plausible reason for interfering with the same.

32. Accordingly, the present petition along with pending application(s), is dismissed with no order as to costs. The order of eviction *qua* the subject premises being property bearing No.6259-60, Kucha Shiv Mandir, Naya Bans, Delhi passed in favour of the respondent/ landlord against the petitioner / tenant by the learned ARC *vide* the impugned order dated 21.02.2025 is affirmed.

SAURABH BANERJEE, J.

SEPTEMBER 10, 2025

NA

¹⁵ 2024:DHC:1977