



2025:DHC:10108



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

% ***Date of decision: November 14, 2025***

+ **RC.REV. 357/2025**

RAMESH KUMAR & ORS.

....Petitioners

Through: Mr. Nikhilesh Krishnan and Mr. Jai Pratap, Advocates.

versus

RAJIV SHARMA

.....Respondent

Through: Mr. Sanjeev Soni, Advocate with respondent in person.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (Oral)

CM APPL. 71255/2025 (*Exemption*)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

CM. APPL. 71256/2025 (*Condonation of delay in re-filing*)

3. By virtue of the present application, the petitioners/ tenants seek condonation of delay of 35 days in re-filing of the present petition.
4. For the reasons stated in the application, the same is allowed, and the delay of 35days in re-filing of the present petition is condoned.
5. Accordingly, the application stands disposed of.

RC.REV. 357/2025 & CM APPL. 71254/2025 (*Stay*)

6. By virtue of the present petition, the petitioners/ tenants seek setting aside of the order dated 19.05.2025 (***impugned order***) passed by the learned Additional Rent Controller, Central District, Tis Hazari Courts,



Delhi (*learned ARC*) in RC/ARC No.77839/2016 entitled **Sh. Rajiv Sharma Vs. Sh. Ramesh Kumar** filed by the respondent/ landlord.

7. Learned counsel for the tenants submits that since the *landlord-tenant relationship* between the parties is admitted, there is no requirement of addressing any arguments *qua* the same. In any event, he submits that the entire case of the tenants is with respect to the alleged *bona fide requirement* of the landlord, as well as that he has numerous *alternative accommodations* available to suit his needs.

8. *Qua bona fide requirement*, learned counsel submits that despite the primary ground in the landlord's eviction petition being that since the landlord is a lawyer he wants to occupy the subject premises for offering his professional services, however, there is no dispute *qua* the fact that the said landlord failed to produce a single *Vakalatnama* or any other document(s) pertaining to his practice as an advocate for any period prior to the filing of the eviction petition, and so the said plea of the landlord was bound to be rejected. To support his case, he seeks to rely upon the dicta of the Hon'ble Supreme Court in **Mattulal vs. Radhe Lal** [1974 INSC 99], **Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta** [(1999) 6 SCC 222] and **Hasmat Rai & Anr. vs. Raghunath Prasad** [(1981) 3 SCC 103] and submits that the requirement alleged by a landlord must be real, honest and sincere, and should be more than a mere whim or desire. Further, relying upon **Aggarwal Papers vs. Mukesh Kumar** [2012 (194) DLT 605], wherein since the landlord failed to put anything on record to show that his daughter-in-law, for whom the subject premises therein was stated to be required, was actually an advocate, the impugned order was set aside and the tenant therein was granted leave to defend.



9. *Qua* the availability of suitable *alternative accommodations* available with the landlord, learned counsel, drawing the attention of this Court to the Site Plan filed by the landlord before the learned ARC, submits that the landlord has as many as three different shops marked as Mark D, Mark G and Mark H, as also a *Baithak* Office marked as Mark I, available with him in the very same building wherein the subject premises is situated. He submits that the first and second floors of the said building are also available with the landlord, and though the same are residential in nature, since the landlord's family consists of only three persons, he could have devoted some space in the said residential quarters to his office as well.

10. On the other hand, learned counsel for the landlord appearing on advance service supports the findings rendered by the learned ARC. He submits that in view thereof, there is no interference required by this Court in a revisional jurisdiction, more so, whence the tenant is trying to reargue the same issues which have been duly negated by the learned ARC after carefully considering all the aspects raised by the tenant before him.

11. This Court has heard learned counsels for both the parties at sufficient length. Based thereon, this Court finds that the landlord has been able to prove before the learned ARC that he is a practising lawyer, enrolled with the Bar since and from August, 2005 [*Ex. PW-1/10* and *Ex. PW-3/3*] and was still holding his Bar membership and a valid Certificate of Practice till date after nearly 20 years in the profession. As such, the requirement of the landlord for opening of his own office for conducting his profession can hardly be called a whim or a fancy. The fact that the landlord is holding an active Bar membership, is sufficient proof to



conclude that he is in active profession, which can be in any manner. At the end of the day, what is sought to be considered by learned counsel for the tenant are materials of no actual value for being taken note of by the learned ARC in an Eviction Petition. Thus, they are not sufficient to disbelieve the *bona fide requirement* of the landlord for the subject premises. Hence, the judgements, particularly since ***Aggarwal Papers (supra)*** was a case wherein the landlord was unable to show that the person being his daughter-in-law was even an Advocate or not, being distinguishable are not applicable to the facts involved herein. Hence, the reliance thereof by learned counsel can hardly offer any support. Even otherwise, this Court is agreeable with the findings arrived by the learned ARC qua there being a *bona fide requirement* of the landlord in favour of the landlord, which are reproduced as under:-

“47) Lastly, it is contended that petitioner has failed to establish that he was practicing advocate at the time of filing of petition and therefore, his makeshift office space was insufficient. It is submitted that in cross examination, PW-1 has admitted that during his LLB course, he was also doing the business of desktop publishing and designing since 1993. Thus, it is argued he did not have any need to do law practice. It is also submitted that no income tax return has been filed by PW-1 for the period of 2005-2010, thereby, implying that there was no practice as an advocate. It is also stated that the documents filed by the petitioner i.e. photocopies of vakalatnamas, interim orders of various cases showing his appearance as an advocate do not pertain to the prior to filing of the eviction petition and therefore, at the time of institution of the eviction petition, the petitioner was not practicing advocate. It is also stated that the bar association identity cards filed by the petitioner are also of the period subsequent to the filing of the present eviction petition and therefore, do not assist the case of the petitioner. It is also stated that even



otherwise, the said documents do not show any law practice of the petitioner. Furthermore, it is stated that PW-3 during cross examination has admitted that at the time of issuance of certificate of practice, the bar council only verifies the law degree and thus, it does not assist the case of the petitioner. **However, perusal of record shows that in the leave to defend application itself, the respondents had averred that petitioner being an advocate has cleverly drafted the pleading. Thus, the factum of petitioner being an advocate at the time of filing of petition is not in dispute.** Rather, the plea taken is that petitioner has failed to prove that he is actually practicing and facing insufficiency of space for his need. Thus, it is contended that petitioner has failed to substantiate that the space available is insufficient as no proof of associates visiting him or clerks and stenographers has been proved by the petitioner. It is also stated that he has not filed any document with regard to any junior advocate employed by him. It is also stated that despite mentioning various witnesses, petitioner only examined Amit Chaudhary with respect to the assertion of running of law practice and he too admitted that he does not have any document to show that he was working as associate with petitioner prior to 24.05.2010. However, perusal of record shows that the respondents themselves have averred in their pleadings that petitioner also has a chamber no. 226 in Western Wing, Tis Hazari and has also filed purported visiting card of the petitioner. In this regard, it is submitted on behalf of respondents that if the petitioner accepts that he has chamber at Tis Hazari, then his bonafide need is satisfied.

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49) The aforesaid observations and findings in the case of **Yash Pal Vs. Gopal Singh Nim (supra)** also cover the factual scenario of the present matter. **As observed therein by the Hon'ble High Court, being a successful advocate or being practicing advocate, having many cases, is not a pie-condition for seeking eviction of the tenant from the premises from where the landlord wants to carry/commence his professional work.** Even otherwise, it is not in dispute that as



an advocate, one need not only practice in court but one can also work as a consultant or do drafting or act as an arbitrator as well. Therefore, in view of the admission of the respondents that the petitioner is an advocate, the argument that his practice is not successful or that he does not face shortage of space is liable to be rejected. Similarly, the contention that the petitioner already has a chamber in court does not mean that the petitioner is not entitled to have an office which is just below his residence to carry out his professional work and which premises would also be used when the landlord is not in court or in late hours or early hours; as also on holidays. Therefore, the contention that the petitioner already has a chamber at Tis Hazari would not amount to an alternative accommodation for the purported bona fide need of the present petition. Hence, the said argument is liable to be rejected..”

12. Accordingly, the aspect of *bona fide requirement* having been decided in accordance with the settled position of law and after a detailed analysis by the learned ARC, does not call for any interference by this Court, and that too in the present revision petition wherein the scope itself is very limited.

13. Next qua the aspect of suitable alternative accommodation, a perusal of the record shows that the Site Plan filed by the landlord has been admitted by the tenants, particularly since Mr. Ramesh Kumar/ RW-1 has stated in his cross-examination on 21.09.2021 as under:-

“The road-on which the suit premises is located is called Kolhapur Road. The witness is shown the site plan Ex.PW171 and the site plan filed by him Ex. RW1/1 and is asked to tell the difference between the site plan of ground floor of the premises. He states that both are same.”

14. Then proceeding on the basis of the same Site Plan, further perusal of the record reveals that each of the above alleged alternative



accommodation has already been dealt with by the learned ARC by way of the impugned order as under:-

“37) Further, it is contended that the need is not bonafide as the petitioner could easily run his law office from the first floor of the subject premises alongwith the portion already in his possession on the ground floor. It is stated that PW-1 has admitted that there are only three persons including himself in his family who are residing in the subject premises and therefore, there is ample space on the first floor as well as the second floor. Further, it is stated that PW-1 has also admitted that he does not have any documents regarding the purported ailment of gout and therefore, he can easily establish his office on the upper floor. It is stated that as per the regulations, an advocate can use 50% of the first floor for an office. However, in this regard it is pertinent to note the judgement of the Hon’ble Apex Court in *Uday Shankar Upadhyay v. Naveen Maheshwari* (2010) 1 SCC 503 is to be noted where it was held that it is not for the Courts to say that the landlord should shift to the first floor or any higher floor as it is well known that shops and businesses are usually conducted on the ground floor, because the customers can reach there easily, it was reiterated that the Court cannot dictate to the landlord which floor he should use for his business and that is for the landlord himself to decide. Thus, a ground floor premises is more suitable for commercial purpose than the premises on upper floor as it has more footfall of the customers. Reliance in this regard is placed upon the decision of Hon’ble High Court of Delhi in case of *Dilip Singh Kapoor & Ors Vs. Neeraj Khanna & Anr*, RC.REV. 66/2017, decided on 31.08.2022. Furthermore, the landlord being the best judge of his own requirement is the best person to decide as to which premises he has to chose for conducting his business and a tenant cannot force the landlord to conduct his business from upper floors. It has been held by the Hon’ble Supreme Court in the case of *Rahabhar Productions Pvt. Ltd. Vs. Rajendera Kumar Tandon* 72 (1998) DLT 629 that the landlord is not disentitled from seeking recovery of the possession of a ground floor



merely on the plea that he is also in possession of first floor and second floor so long as the court is satisfied with respect to the bonafide requirement of the landlord for the tenanted premises. Therefore, merely because law permits running of advocate's office from the first floor does not mean that the court can direct the landlord to run his office from the first floor when in comparison the tenanted premises on the ground floor are available to him. It is the prerogative of the landlord to decide the same and he exercises full autonomy in this regard. The contention that a law office is not similar to a grocery shop does not assist the case of the respondent since it is not in dispute that various clients would visit a law office as well and would prefer not to climb stairs for the same. Also, in this regard, reliance is placed upon the case of Chaman Lal Mittal Vs. Kamini Shanna bearing RC Rev. No. 467/2019 dated 06.09.2019 whereby it is observed that there can be no comparison of an advocate's office on ground floor of main commercial street with Advocate's office on the mezzanine floor. Furthermore, the respondent cannot dictate as to how the landlord is to utilize his property. Thus, the said contention that the petitioner could have adjusted on the first floor of his premises is devoid of merits as it is for the landlord to choose his place of business/livelihood.

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41) *Similarly, in the present matter, the landlord has exercised his preference for the tenanted premises and stated that the same can be combined with the covered verandah on the rear side with a door to meet his requirement for bigger and better space for his office. Further, the tenanted premises lie on commercial street and therefore, is much more suitable than the portion Mark D and H. It is also not in dispute that individually portion Mark D and Mark H, both are smaller than the tenanted premises. Therefore, when seen in comparison with the tenanted premises, individually either of the said purported accommodations cannot be considered as suitable alternative. Even otherwise, the landlord possesses*



the prerogative to determine his specific requirements, exercising full autonomy in this regard. It is not within the purview of the courts to impose directives on the landlord regarding the nature or quality of their chosen usage of the tenanted premises. Therefore, the courts refrain from prescribing any standard or guidelines for the landlord's choices (residential or commercial). Reliance in this regard can be placed upon the judgment of Hon'ble High Court of Delhi in the case of **Tarun Kumar Vs. Parmanand Garg in RC. Rev. No. 56/2018 decided on 09.11.2023**. Hence, once the landlord has exercised the said preference, he cannot be forced to occupy the other premises which may have available during the pendency of the trial. Also, the Hon'ble Supreme court in **Baldev Singh Bajwa vs Monish Saini (2005) 12 SCC 778** has held that whenever a landlord seeks eviction of the tenant for bonafide need, the controller shall presume the need as genuine and bonfide. Furthermore, the provision of Section 19 (2) of DRC Act is to be emphasized which protects a tenant in case the landlord recovers possession of any premises and the premises are not occupied by the landlord or by the person for whose benefit the premises are held within two months of obtaining such possession or having obtained the possession, the same are re-let to any other person within three years from the date of obtaining the possession. Thus, the said contention is also devoid of merits and does not render the need of the petitioner as malafide.

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45) Next, it is contended that as per the case of the petitioner himself, he was in possession of shops marked as G and H as well as portions I, J and K with bathroom and W. C. and adjoining portion F at the time of filing of present petition. It is stated that the said portion amounts to roughly 389 sq. ft and would have been sufficient for his purported need as he has claimed that he only requires 180 sq. ft. of area. It is also stated PW-1 could have easily connected the portion G and H through any door with I and J, however, he has not made any effort to use the said space till date. It is further contended that



petitioner on getting possession of shop D in 2012 did not use the same for office. It is stated that the said shop D is also connected to the covered verandah K which opens up to the unused courtyard space J. **However, while deciding the question of bonafide requirement of the landlord, it is quite unnecessary to make an endeavor as to how else the landlord could have adjusted.** It is not for the court or the tenant to dictate to the landlord to make alterations in his property for making it suitable for his need when on the contrary he can use the tenanted premises. Also, in case the petitioner fails to occupy the premises as has been claimed by him, the Delhi Rent Control Act also provides for recovery of possession by the respondent/ tenant of the tenanted premises for his re-entry and occupation. It is pertinent to note herein the case of **Ravichandran and Ors. Vs Natrajan Nadar and Ors. (2004)1MU458**, wherein it was held:-

*“Even assuming that other premises are available, then the choice is left to the landlord to decide as to which non residential premises he should occupy, and the tenant cannot have any say in the matter. **If the landlord is able to show the bonafide, then the tenant cannot dictate terms to the landlord that he should occupy some other building and not the one mentioned in the petition.**””*

15. As evident therefrom, each of the alleged *alternative accommodations* being the other shops and the *Baithak*, as well as the first and second floors, have been ruled out by the learned ARC as being suitable to the needs of the landlord after duly considering each of them individually. As such, the aspect of *alternative accommodations* being available with the landlord has also been decided in favour of the landlord, once again, after a detailed analysis by the learned ARC. This Court is in agreement with the findings recorded therein. Resultantly, no interference by this Court is called for, and that too, once again, in the present revision



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petition wherein the scope itself is very limited.

16. Be that as it may, the contentions put forth by the learned counsel here hardly carry any weight since it is well settled position of law that a tenant cannot be allowed to dictate the terms qua suitability of the landlord's properties to his needs, especially, since there are various relevant factors which can only be determined by the landlord himself [*Baldev Singh Bajwa vs. Monish Saini* (2005) 12 SCC 778]; *Kanhaiya Lal Arya vs. Md. Ehsan & Ors.* (2025 SCC OnLine SC 432)].

17. For the aforesaid analysis and reasonings, this Court is of the view that the tenants have not been able to make out a case for this Court to issue notice for exercising its revisional jurisdiction.

18. Accordingly, the present petition is dismissed in limine, however, with no order as to costs.

SAURABH BANERJEE, J.

NOVEMBER 14, 2025

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