



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

% ***Date of decision: September 19, 2025***

+ **RC.REV. 232/2022**

**MITHLESH RASTOGI (SINCE DECEASED) THROUGH
HER LRS & ORS.Petitioners**

Through: Mr. Shiv Charan Garg, Mr. Imran
Khan and Ms. Jahanvi Garg,
Advocates

versus

RADHEY SHYAM VERMARespondent

Through: Mr. Bharat Monga and Ms. Nishtha
Kaura, Advocates with Respondent
in person

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (Oral)

1. The petitioners/ landlords¹ filed an Eviction Petition under *Section 14(1)(e)* read with *Section 25B* of the Delhi Rent Control Act, 1958², before the learned SCJ-Cum-RC, New Delhi District, Patiala House, New Delhi³ seeking eviction of the respondent/ tenant⁴ from the tenanted shop i.e., shop in property no. IV/1/58, survey no.52/15, Gopi Nath Bazar, Shastri Bazar, Delhi Cantt., New Delhi-110010⁵.

2. As per landlords, they were the joint purchasers of the property(s) bearing no. IV/1/58, 59,60, survey no. 52/15, Gopi Nath Bazar, Shastri Bazar, Delhi Cantt., New Delhi-110010 through a registered Sale Deed

¹ Hereinafter referred to as "*landlords*"

² Hereinafter referred to as "*DRC Act*"

³ Hereinafter referred to as "*learned ARC*"

⁴ Hereinafter referred to as "*tenant*"

⁵ Hereinafter referred to as "*subject premises*"



dated 15.12.2005. Out of the said properties, property bearing no. IV/1/58, survey no. 52/15, is the tenanted shop/ subject premises admeasuring 11'3 x 25'.

3. In was also the case of the landlords that prior to filing of the said Eviction Petition, they had instituted Suit no.272/ 2016 before the learned Additional District Judge-01, New Delhi District, Patiala House Courts, New Delhi⁶ against the very same tenant for a decree of possession, recovery of damages, and *mesne* profits for unauthorized occupation of the subject premises. It was the case of the tenant therein that he was inducted as a tenant in the subject premises on 06.02.1986 by one Mr. Ajay Gupta, the erstwhile owner, and that he had subsequently started depositing rent under *Section 27* of the DRC Act. *Vide* judgment and decree dated 31.10.2019, though the said suit was held to be barred in view of the embargo of *Section 50* of the DRC Act, however, it was held that the *landlord tenant relationship* between the parties was established as the landlords became the predecessor-in-interest of the erstwhile owner, Mr. Ajay Gupta, due to the transfer of leasehold rights in their favour.

4. As such, as per the landlords, there being no challenge thereto by the tenant, the judgment and decree dated 31.10.2019 has attained finality, and is binding upon the tenant. The landlords then sent a Legal Notice dated 22.09.2020 to the tenant. In response thereto, on 25.09.2020, though the tenant accepted the *landlord tenant relationship* between the parties, however, he denied that there was a *bona fide requirement* of the subject premises by the landlords.

⁶ Hereinafter referred to as "*learned ADJ*"



5. It was also the case of the landlords that their earnings took a hit due to Covid-19 pandemic, and that they intended to start a new joint business for providing a source of sustenance and financial help for their respective families, however, they had no *alternative accommodation/* commercial property to start the new joint business.

6. Upon service of the eviction petition, the tenant filed an application seeking leave to defend under *Section(s) 25(4) and (5)* of the DRC Act, contending that as per the judgment and decree dated 31.10.2019, no *landlord-tenant relationship* existed *inter se* them since the Delhi Cantonment Board was owner of the subject premises and Mr. Ajay Gupta, being a mere lessee, could not have sold his rights therein via the Sale Deed dated 15.12.2005 to any third party like the landlords. In effect, the said Sale Deed was *admittedly* illegal *vide* judgment and decree dated 31.10.2019, as also the tenant in the civil suit had produced and proven a document denying the title of the landlords therein.

7. It was also the case of the tenant that there was *no bona fide requirement* as all the three landlords were gainfully employed, and that they never disclosed the nature/ kind of businesses they intended to commence from the subject premises. Also, the landlords concealed that they were having numerous *alternate accommodations*.

8. After hearing both parties, by virtue of the order dated 11.07.2022,⁷ the learned ARC held that the tenant was able to raise triable issues *qua bona fide requirement* as the landlords did not disclose the nature of the business they intended to carry, as also failed to demonstrate/ disclose the



dependency of their family members and the current source of income. As such, the application for leave to defend of the tenant was allowed.

9. Aggrieved thereby, the present petition is preferred by the landlords.

10. On 23.09.2022, this Court issued notice and stayed further proceedings in the Eviction Petition before the learned ARC.

11. Today, Mr. Shiv Charan Garg, learned counsel for the landlords submits that there is a *landlord-tenant relationship* between the parties by virtue of the Sale Deed dated 15.12.2005 which was affirmed through the judgment and decree dated 31.10.2019 whereby the learned ADJ held that the landlords were indeed the landlords of the subject premises as they are the predecessor-in-interest of Mr. Ajay Gupta, erstwhile owner, due to the transfer of lease hold rights *qua* the subject premises.

12. Further, relying upon ***Raj Kumar Khaitan & Ors. v. Bibi Zubaida Khatun & Anr.***⁸, ***Shri Gurcharan Lal Kumar v. Srimati Satyawati & Ors.***⁹ and ***Sarla Ahuja v. United India Insurance Company***¹⁰, he submits that the reasons given by the learned ARC *qua* the impugned order is contrary to the settled position of law as the landlords were not required to indicate the precise nature of the business they intended to commence from the subject premises as also a presumption of *bona fide requirement* has to be considered in favour of the landlords under *Section 14(1)(e)* of the DRC Act. Then, relying upon ***Vijay Sharma v. Namita Aggarawal***¹¹,

⁷ Hereinafter referred to as “*impugned order*”

⁸ AIR 1995 SC 576

⁹ 2013 SCC OnlineDel 1608

¹⁰ 1988 (8) SCC 119

¹¹ 2017(2) RCR 434



he submits that once it was the case of the landlords that there was no *alternative accommodation*/ commercial property available, the onus lay upon the tenant to show otherwise.

13. *Per Contra*, Mr. Bharat Monga, learned counsel for the tenant submits that there is no *landlord-tenant relationship* between the parties as the very same landlords had earlier instituted a suit for recovery of possession and damages wherein the landlord no.2 admitted that no permission was taken before purchasing the subject premises by the Delhi Cantonment Board in terms of *Clause 1(8)* of the Lease Deed dated 06.02.1986 and the landlord no.1 *admitted* that the Sale Deed dated 15.12.2005 was an illegal document as also the tenant had proved by way of a document that the tenant had denied the title of the landlords.

14. He submits that the landlords were having no *bona fide requirement* as they all had their own businesses and thus were gainfully employed. Not only that, they were having various *alternative accommodations* available with them. He submits that since the landlords were unable to fulfil the ingredients of *Section 14(1)(e)* of the DRC Act, the application for leave to defend of the tenant has rightly been allowed.

15. In any event, relying upon ***Charan Dass Duggal v. Brahma Nand***¹², ***Tarun Pahwa v. Pradeep Makin***¹³ and ***Mithan Lal Singhal v. Panchyati Dharamshala Trust***¹⁴, he submits that the tenant was only required to establish a *prima facie* case while seeking leave to defend, and since the tenant had, *in fact*, raised triable issues, the matter cannot be

¹² (1983) 1 SCC 301

¹³ 2012 SCC Online Del 6366

¹⁴ 2024 SCC Online Del 1044



decided without leading evidence.

16. As per the learned counsel for the tenant, in view of the aforesaid, the tenant was able to raise *triable issues* before the learned ARC, and they have been duly considered in the impugned order.

17. Lastly, relying upon ***Mithan Lal Singhal (supra)*** and ***Shiv Sarup Gupta v. Mahesh Chand Gupta***¹⁵, he submits that the power under *Section 25B(8)* of the DRC Act is confined to examining the process adopted and ensuring its legality and this Court cannot reappreciate evidence or substitute the factual findings of the Rent Controller, except where such findings are so unreasonable that no Rent Controller could have reached them on the available material.

18. Heard learned counsel for the parties and gone through the pleadings on record and case law cited therewith.

19. *Admittedly, vide* judgment and decree dated 31.10.2019, passed by the learned ADJ in Suit no.272/ 2016 *inter se* the parties, wherein it has been held that the *landlord tenant relationship* between the parties was established as the landlords became the predecessor-in-interest of the erstwhile owner, Mr. Ajay Gupta, due to the transfer of leasehold rights in their favour. Since the same remains unchallenged by the tenant, it is final and binding upon him.

20. It is also an admitted case of the tenant that he was inducted as a tenant in the subject premises on 06.02.1986 by the very same Mr. Ajay Gupta, the erstwhile owner, and that he had subsequently started depositing the rent under *Section 27* of the DRC Act before the learned

¹⁵ (1999) 6 SCC 222



ARC.

21. *Admittedly*, the landlords purchased the subject premises *vide* a Sale Deed dated 15.12.2005 from the said Mr. Ajay Gupta, which has never been disputed by the tenant.

22. The aforesaid reveals that the landlords were able to portray before the learned ARC that they were having a better title than the tenant. This is of much relevance as the landlords were not required to prove absolute ownership or establish their title beyond all doubts. Reliance in this regard is placed upon *Smt. Shanti Sharma v. Smt. Ved Prabha*¹⁶, *Rajender Kumar Sharma v. Smt. Leela Wati*¹⁷ and *Ramesh Chand v. Uganti Devi*¹⁸. As such, there can be no qualm in this Court holding that there indeed existed a *landlord tenant relationship* between the parties. More so, since it was/ is not open for the tenant to question the validity or the nature of the documents of ownership of the landlords, particularly whence there is no challenge thereto. Hence, this Court is in concurrence with the observations made by the learned ARC while applying the yardstick with respect to the aspect of there being a *landlord tenant relationship* between the parties.

23. In an eviction proceeding under *Section 14(1)(e)* of the DRC Act, the *bona fide requirement* of the subject premises by the landlord has to be honest, truthful, genuine, and devoid of malice, unfairness, or deviousness. An assertion to that effect, which is backed with satisfactory reasons, would be sufficient to garner plausible, as also sufficient, trust and faith

¹⁶ 1987 SCC (4) 193

¹⁷ 155 (2008) DLT 383

¹⁸ 2009 (157) DLT 450



therein by the learned ARC. In the present case, the landlords categorially averred in the Eviction Petition that, faced with the Covid-19 pandemic and the lockdown, they took a severe hit, and therefore intended to start a new joint business “.....in order to contribute towards providing source of sustenance and financial help for their respective families... ..”. Even though the landlords were gainfully employed, under such circumstances, was no impediment for them to file an eviction petition for eviction of the tenant from the subject premises. The genuine needs of a landlord can be ever-changing as it depends upon various factors, like financial status in the present one, which is one of the factors pleaded by the landlords since the very inception before the learned ARC.

24. Thus, as the landlords had pleaded a substantive case worthy of credibility and the cause of the landlords is required to be given more weightage than the need of the tenant. The same carries sufficient weight since, in view of the settled position of law as held in **Raj Kumar Khaitan & Ors. (supra)**, **Shri Gurcharan Lal Kumar (supra)** and **Sarla Ahuja (supra)**, it was not incumbent upon the landlords to give/ spell out the exact nature or type of the venture/ business they intended to commence. This is so, since while adjudicating an application for leave to defend, it must be borne in mind that the parameters for determination *qua* a landlord and a tenant stand on different footing. On one hand, where a presumption and a categorical stand by the landlord can/ may be sufficient for the learned ARC to allow the Eviction Petition, however, on the other hand, a mere averment/ assertion by the tenant may/ can be though significant, but insufficient for the learned ARC to allow the application for leave to defend. This is primarily since the assertions therein have to



had a concrete backing with a basis/ document/ proof in support thereof. It is for this reason that while adjudicating an application for leave to defend of the tenant, the onus heavily lies upon the tenant to raise a *triable issue*, and there is no such requirement on the part of the landlord while filing an Eviction Petition. Reliance in this regard is placed upon ***Ragavendra Kumar v. Prem Machinery & Co***¹⁹. and ***Lata Prasad Gupta v. Sita Ram***²⁰.

25. As per settled principle of law laid down in ***Prativa Devi v. T.V. Krishnan***²¹ and ***Kanhaiya Lal Arya v. Md. Ehsan & Ors.***²², it was the dominion of the landlords to have selected the best possible, reasonable, practical, appropriate, and decently befitting premises for carrying on their joint family business, the landlords were able to show that they had a *bona fide requirement* for the subject premises. Moreover, the need of the subject premises by the landlords was not open to be questioned by the tenant merely because he was occupying the same for a lengthy period.

26. Therefore, there was no denial/ case set up to the contrary by the tenant before the learned ARC, which could have prompted the learned ARC to render a different finding.

27. In furtherance of their intention to commence a joint family business from the subject premises, the landlords had averred in their Eviction Petition that they “... ..do not own and possess any other immovable commercial property in Govt. of NCT of Delhi and the only commercial property owned by them in Govt. of NCT of Delhi is the

¹⁹ (2000) 1 SCC 679

²⁰ 2017 SCC Online Del 13026

²¹ (1996) 5 SCC 353

²² 2025 SCC Online SC 432



tenanted shop... ..” as also that there was no *alternative accommodation* available for the same. Though the tenant had given particulars of various premises as *alternative accommodation* available with the landlords, however, they remained uncorroborated, unsupported and unconfirmed by the tenant. The same being reduced to only bald assertions, in view of the findings in **Vijay Sharma (supra)**, the averments made by the tenant at the time of deciding an application wherein leave to defend is being sought, can neither be considered nor given any credence. As such, the tenant herein was unable to discharge the onus to prove otherwise so as to fulfil a necessary pre-requisite for raising a *triable issue*.

28. Under the circumstances involved, the case set up by the landlords regarding having no suitable and acceptable *alternative accommodation* available in their Eviction Petition is presumed to be genuine, more so, since there was hardly anything to controvert by the tenant.

29. Therefore, in terms of the aforesaid analysis and findings, the contrary findings rendered by the learned ARC *qua* the impugned order being against all canons of justice and against the well-settled principle of law is liable to be set aside. For this, reliance is placed upon **Abid-Ul-Islam v. Inder Sain Dua**²³, wherein the Hon’ble Supreme Court has held as under:-

“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

²³ (2022) 6 SCC 30



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.....”

(Emphasis Supplied)

30. Hence, in exercise of the limited powers conferred under the revisional jurisdiction, in the considered opinion of this Court the present petition is a fit case for setting aside the impugned order passed by the learned ARC.

31. In view of the aforesaid position of law, this Court need not advert to ***Mithan Lal Singhal (supra)*** and ***Shiv Sarup Gupta (supra)*** cited by learned counsel for the tenant.

32. Accordingly, the present revision petition is allowed, and the impugned order dated 11.07.2022 is set aside. As such, the Eviction Petition being RC ARC 40/2020 filed by the landlords before the learned ARC against the tenant stands allowed and the tenant is directed to hand over the subject premises i.e., shop in property no. IV/1/58, survey no.52/15, Gopi Nath Bazar, Shastri Bazar, Delhi Cantt., New Delhi-110 010, after expiry of the period of six months in terms of *Section 14(7)* of the DRC Act.

33. No order as to costs.

SAURABH BANERJEE, J.

SEPTEMBER 19, 2025/Ab