



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

% *Date of decision: August, 21, 2025*

+ **RC.REV. 239/2025, CM APPL. 50340/2025-Stay, CM APPL. 50341/2025-Exp**

EDUCATION DEPARTMENT & ANR.

.....Petitioners

Through: Mr. Abhinav Sharma, Mr. Shubham, Advocates alongwith Mr. Vikas Kalia, Additional Director, DOE.

Versus

MS ASIYA JAMIL

.....Respondent

Through: Mr. Manmohan Gupta and Mr. Vaibhav Kumar, Advocates

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-01, Central District, Tis Hazari Courts, Delhi³, seeking eviction of the petitioners/ tenant⁴ from the first and second floor of the property bearing nos.2376 to 2382, situated in Municipal Ward No.VI, Ballimaran, Delhi⁵, on the ground of her *bona fide* requirement of the subject premises for her own residence.

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*"



2. Essentially, it was the case of the landlord that she is a single lady aged about 69 years, who is suffering from various age related diseases/ ailments and has no one to look after her at her present address at Ghaziabad, Uttar Pradesh. Additionally, as per landlord since she was born, educated and had spent substantial part of her life in Delhi, as also since all her near and close relatives reside there, she intends to return and reside in Delhi. Also, in the eviction petition, the landlord gave the details of other properties owned by her in the same premises, however, since they were all in the occupation of other tenants, it was her case that she had no other reasonably suitable portion thereof for the aforesaid purpose.

3. The petitioner no.1, after service of summons as per Third Schedule of the DRC Act, filed an application for leave to defend under *Section(s)* 25(4) and (5) of the DRC Act wherein it primarily contended that there was a school being run from the subject premises for the marginalized female student (specially minority communities), as also that being owner of other properties the landlord had no *bona fide* requirement, moreover, since she had not filed any such eviction petition qua those properties and finally that she is simply interested in letting out the subject premises at a higher rent.

4. Be that as it may, in the same leave to defend application, the tenant has fairly admitted that it was regularly paying the rent to the landlord as also that it was willing/ continue to pay the enhanced/ increased rent along with arrears, subject to approval of the Competent Authority.

5. After hearing both parties, the learned ARC, by virtue of the impugned order dated 08.04.2025, held that there, *admittedly*, existed a



landlord-tenant relationship between the respondent and the petitioners, 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. Based thereon, the leave to defend application of the tenant was dismissed and consequently an eviction order under *Section 14(1)(e)* read with *Section 25B* of the DRC Act was passed in the favour of the landlord.

6. Aggrieved thereby, the tenant has preferred the present revision petition under *Section 25B(8)* of the DRC Act assailing the order dated 08.04.2025 passed by the learned ARC in RC ARC No. 340/2024 titled ***Ms. Asiya Jamil v. Education Department, GNCTD & Anr.***⁶

7. When the present petition was listed on 18.08.2025 for the first time, this Court after hearing Mr. Abhinav Sharma, learned counsel for the tenant, passed the following order:-

“After some arguments, learned counsel for the petitioners fairly seeks, and is granted, a period of two days for seeking appropriate instructions qua the feasible time period within which the petitioners would be able to vacate the subject property and terms of payment (rent) it is willing to pay to the respondent for the extended period.”

8. In response thereto, today Mr. Abhinav Sharma, learned counsel for the tenant submits that he has no instructions *qua* the same and therefore is going to proceed with his arguments.

9. As such, this Court has taken up the present petition for disposal of the same after hearing learned counsel for the parties.

10. Mr. Abhinav Sharma submits that the learned ARC has dismissed the application for leave to defend of the tenant in a mechanical and

⁶ hereinafter referred to as *“impugned order”*



cursory manner without even appreciating the facts and circumstances involved therein, primarily since it has been wrongly held that no triable issue was raised before him.

11. Mr. Abhinav Sharma then submits that the landlord has been living in Ghaziabad for substantial part of her life and her sudden shifting from Ghaziabad to Delhi raises a triable issue regarding the genuineness of her *bona fide* requirement of the subject premises and therefore the burden was on the landlord to prove such requirement, which the learned ARC failed to consider. To buttress his submission, he placed reliance on ***Charan Dass Duggal v. Brahma Nand***⁷, wherein the Hon'ble Supreme Court, while dealing with a similar case of landlord-tenant dispute involving a case wherein the landlord, who was residing outside Delhi, filed an eviction petition with respect to the property in Delhi in the occupation of the tenant, held that leave to defend can be granted.

12. Mr. Abhinav Sharma further submits the landlord has wrongly pleaded that no other alternative accommodation is available with her when it is her own case that there exist various tenanted shops on the ground floor of the same premises, which would have been more suitable for her.

13. Lastly, Mr. Abhinav Sharma submits that the alleged requirement of the landlord is not *bona fide* and that her real intention is to let out the premises at increased rent, which is evident from the fact that landlord has not filed any eviction petition against the other tenant on the ground floor.

14. Issue notice.

⁷ (1983) 1 SCC 301



15. Mr. Manmohan Gupta, learned counsel for the landlord accepts notice and controverting the aforesaid submissions made by Mr. Abhinav Sharma, learned counsel for the tenant, submits that the learned ARC has rightly dismissed the tenant's leave to defend application. He submits that the landlord, being an old lady of about 69 years and suffering from various age related disease/ ailment requires to shift to Delhi from Ghaziabad where her near and close relative resides, and therefore, the landlord is in a *bona fide* requirement of the subject premises for her own occupation and she has no other suitable accommodation for the said purpose.

16. This Court has heard learned counsel for the parties, as also has gone through the pleadings and documents therewith on record and has perused the case law cited at the Bar.

17. In effect, this Court finds that Mr. Abhinav Sharma is trying to canvass the very same arguments which have already been negated by the learned ARC vide the impugned order.

18. In any event, while dealing with the proceedings involving an eviction petition under *Section 14(1)(e)* of the DRC Act, the Court is to take into consideration the following prime factors:

- (a) Landlord-tenant relationship
- (b) Bona fide requirement
- (c) Alternate suitable accommodation.

19. *Qua* the first aspect of landlord-tenant relationship involved in the present proceedings, since *admittedly*, the tenant has itself in its leave to defend application before the learned ARC pleaded that "... ..*the*



*proposal for payment of rent in respect of the said premises was regularly being paid by the answering respondent till March, 2024... ..” as also that “... ..the enhanced/ increased rent would be paid to the petitioner in accordance with the approval from the Competent Authority, along with arrears, in the Court or as directed by this Hon'ble Court and the Respondent Department shall continue to pay rent to the petitioner regularly in future as well... ..”, there is no reason for this Court to go into the aspect of landlord-tenant relationship. This, more particularly since the learned ARC has also (*rightly*) held in the impugned judgment that “... ..the first ingredient of landlord-tenant relationship between the parties in the present case, stands established... ..”.*

20. In any event, the tenant has nowhere contended, much less, denied before any forum that it is not the tenant of the landlord. The aforesaid aspect, thus, stands duly established in favour of the landlord.

21. *Qua* the second aspect of *bona fide* requirement of the subject premises by the landlord, since it is not denied by the tenant, it is an undisputed position that the landlord is indeed a senior citizen lady of about 69 years, who is suffering from various old age disease/ ailment. Under such circumstances, it is completely reasonable for her to shift to Delhi, where the medical facilities are much more advance and better than those available at Ghaziabad. This need of the landlord is further accentuated by the fact that she has no one to look after her at Ghaziabad, which, has also not been denied by the tenant. Moreover, the landlord also has all her near and close relatives residing at Delhi. In fact, the Relinquishment Deed filed before the learned ARC shows at least three



relatives/ siblings of the landlord residing at Delhi.

22. Even otherwise, the aforesaid aspect of *bona fide* requirement, when viewed from the eyes of a tenant are also insufficient since the averments made by it in its leave to defend application before the learned ARC are vague and bereft of any particulars. Sans any such pleading(s), there was hardly any chance for the learned ARC to conclude that the tenant was raising any triable issue worthy of consideration for allowing its leave to defend application. Same is the position with this Court as well. Under such circumstances, the learned ARC while dealing with an application for leave to defend is not expected to go into the minute nuances, especially, when there are cogent and supportive material(s).

23. The Hon'ble Supreme Court in ***Baldev Singh Bajwa v. Monish Saini***⁸ while dealing with a *pari materia* provision has enunciated the aforesaid principle in the following words:

“In our view there are inbuilt protections in the relevant provisions, for the tenants that whenever the landlord would approach the court he would approach when his need is genuine and bona fide. It is, of-course, subject to tenants' right to rebut it but with strong and cogent evidence. In our view, the proceeding taken up under Section 13-B by the NRI landlords for the ejection of the tenant, the Court shall presume that landlord's need pleaded in the petition is genuine and bona fide. But this would not dis-entitle the tenant from proving that in fact and in law the requirement of the landlord is not genuine. A heavy burden would lie on the tenant to prove that the requirement of the landlord is not genuine. To prove this fact the tenant will be called upon to give all the necessary facts and particulars supported by documentary evidence, if available, to support his plea in the affidavit itself so that the Controller will be in a position to adjudicate and decide the question of genuine or bona fide requirement of the landlord. A mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in the landlord's favour that his requirement of occupation of the premises is real and genuine.”

⁸ MANU/SC/1239/2005



24. Moreover, it is a settled position of law that the landlord need not show any substantive proof *qua* actual *bona fide* requirement, rather any such assertion/ claim made by the landlord is itself sufficient for the Court to proceed with the presumption that there is indeed a *bona fide* requirement of the premises by the landlord. Reliance in this regard is placed upon *Sarla Ahuja v. United India Insurance Company*⁹ and *Baldev Singh Bajwa (supra)*.

25. In view thereof, the learned ARC has rightly held that landlord “...
...has been able to establish her *bona fide* requirement for the tenanted premises... ..”. This Court also finds no infirmity in the conclusion arrived at by the learned ARC.

26. *Qua* the third aspect of alternate accommodation, though there are other properties owned by the landlord on the ground floor of the same premises, however, *admittedly*, all of those are in the occupation of other tenants and are not vacant and available to the landlord as an alternative accommodation. The landlord simply having alternate accommodation is not itself sufficient, much less, a relevant factor for consideration at the time of dealing with an application for leave to defend, more so, if it is not deemed fit, proper and/ or appropriate for the inhabitation of the landlord. As per the well-settled position of law, it is the prerogative of the landlord to decide which premises suits her requirement and which requires eviction. In such a situation, the tenant cannot dictate the landlord that she should seek eviction of other tenants instead. Reference in this regard can be made to a recent decision of the Hon’ble Supreme Court in the case of

⁹ AIR 1999 SC 100



Kanahaiya Lal Arya v. Md. Ehshan & Ors.¹⁰.

27. Otherwise also, there exists a burden on the tenant to show how the other accommodations are suitable to the landlord requirement and mere assertion saying landlord has alternate accommodations is not enough. In the case at hand, the tenant has been unable to discharge the said onus as the leave to defend application filed by them vaguely pleaded that landlord have alternate accommodations, but remained silent *qua* the the aspect of its suitability, and even as recorded in the impugned judgment “... ..*no photographs showing the area of the said ground floor purportedly in the possession of the petitioner (present respondent) has been filed to show even on prima facie basis its suitability for the projected need of the petitioner for the residential purpose in comparison with the tenanted premises.*”

28. In view of the aforesaid, this Court is agreeable with the conclusion arrived at by the learned ARC that the tenant “... ..*have failed to raise any triable issue on the aspect of alternative accommodation... ..*”. Therefore, there is no reason for this Court to not uphold the finding of the learned ARC.

29. Lastly, the petitioners cannot be allowed to canvass the case as if it is an appeal, and has to restrict their case confining to a revision petition under *Section 25B(8)* of the DRC Act. Undoubtedly, the ambit and scope of interference in a revision petition before this Court is circumscribed only to cases where there is an error apparent on the face of the record or where there is non-regard to following of any Act(s), Rule(s),

¹⁰ MANU/SC/0264/2025



Notification(s), Guideline(s), Office Order(s) or such. Save in such circumstances, this Court shall not disturb the findings of the learned ARC so as to supplant/ substitute its own view. In any event, this Court is not a fact finding authority and is not expected to undertake a roving inquiry, since such an approach would, in effect, convert the power of superintendence into that of regular first appeal which goes against the scheme and intent of the enactment itself. Reference can be made to the decisions of the Hon'ble Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*¹¹, *Sarla Ahuja v. United India Insurance Co. Ltd.*¹² and *Mohd. Inam v. Sanjay Kumar Singhal*¹³.

30. Lastly, the reliance placed by learned counsel for the tenant on *Charan Dass Duggal (supra)*, is misplaced, since the tenant, relying upon that, is for the first time trying to draw a new analogy which was never the case before the learned ARC. Be that as it may, in *Charan Dass Duggal (supra)* it was the case of the tenant in the said leave to defend application therein that the landlord was having a big house in Pathankot and is residing at that place and is not residing in Delhi and therefore, the landlord was not in need of the subject premises at Delhi, and therefore the Hon'ble Supreme Court after observing in *paragraph nos.5 and 7* thereof that “... .. *the landlord is staying at Pathankot, that a house is purchased, may be in the name of his sons and daughters, but there may not be an apparent need to return to Delhi in his old age, a triable issue would come into existence... ..*” and “... ..*Undoubtedly wholly frivolous*

¹¹ (2022) 6 SCC 30

¹² (1998) 8 SCC 119

¹³ (2020) 7 SCC 327



*defence may not entitle a person leave to defend. But equally a triable issue raised, enjoins a duty to grant leave. May be in the end the defence may fail. It is necessary to bear in mind that when leave to defend is refused the party seeking leave is denied an opportunity to test the truth of the averments of the opposite party by cross-examination and rival affidavits may not furnish reliable evidence for concluding the point one way or the other. It is not for a moment suggested that leave to defend must be granted on mere asking but it is equally improper to refuse to grant leave though triable issues are raised and the controversy can be properly adjudicated after ascertainment of truth through cross-examination of witnesses who have filed their affidavits... ..” held that leave to defend ought to have been granted in the aforesaid circumstances. As such, the dicta in **Charan Dass Duggal** (*supra*) is not applicable to the facts of the present case as the petitioner no.1 in the leave to defend application before the learned ARC failed to raise any such argument and, moreover, the landlord herein is an old lady of around 69 years residing alone in Ghaziabad with support of her relatives in Delhi and she wants to come and reside in the subject premises.*

31. Therefore, as a sequitur, this Court finds no infirmity or illegality in the impugned order dated 08.04.2025, which would call for any interference from this Court.

32. Accordingly, in view of the aforesaid discussions, the facts of the present case do not warrant any cause for interference with the impugned order, and the present petition being devoid of merit, both factually and legally, is hereby dismissed.



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33. However, considering that the tenant is running a School from the subject premises, this Court taking a lenient view, deems it fit, proper and appropriate if the said tenant, in addition of to six months benefit as envisaged under *Section 14(7)* of the DRC Act and as granted by the learned ARC vide the impugned order, is further granted time for evicting the subject premises at any stage on or before 31.03.2026. The tenant shall, however, pay user and occupation charges at the rate of Rs.2,00,000/- (*Rupees Two Lakhs Only*) per month with effect from April 2025 till March 2026. Therefore, the tenant being Education Department, Government of NCT of Delhi and the Principal, Government Girls Senior Secondary School shall hand over possession of subject premises being first and second floor of property bearing nos.2376 to 2382, situated in Municipal Ward No.VI, Ballimaran, Delhi to the landlord Ms. Asiya Jamil on or before 31.03.2026.

34. Pending applications are also dismissed. The parties are left to bear their respective costs.

SAURABH BANERJEE, J

AUGUST 21, 2025/So