



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: August, 25, 2025*

+ RC.REV. 391/2024, CM APPL. 75295/2024-Stay, CM APPL. 52638/2025-Early hearing, CM APPL. 52678/2025

RAJENDER KUMAR PAHUJA

.....Petitioner

Through: Mr. Gaurav Seth, Advocate.

Versus

ANUP NARAIN GAUR

.....Respondent

Through: Mr. Jagdeep Sharma, Sr. Advocate
with Mr. Kartikay Sharma and Mr.
Shreya, 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 being RC ARC No.119/2020 titled as '*Anup Narain Gaur v. Rajender Kumar Pahuja*' under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958² against the petitioner/ tenant³ seeking eviction of the shop on the ground floor of property bearing no. IX/7024, Ashok Gali, Gandhi Nagar, Delhi-110 031⁴ before the learned Additional Rent Controller, Karkardooma Courts, Delhi⁵, on the ground that the same was required for his own *bona fide* need of establishing a readymade garments business after taking voluntary retirement from service in the Gas Authority of India Limited.

¹ hereinafter '*respondent*'

² hereinafter '*the Act*'

³ hereinafter '*petitioner*'

⁴ hereinafter '*subject premises*'

⁵ hereinafter '*learned ARC*'



2. Upon being served, the petitioner filed the leave to defend under *Section 25B(4)* of the Act refuting the grounds urged by the respondent as also primarily urging that there were inconsistencies and contradictions in the claimed partition and other deeds filed by the respondent *qua* the ownership of the subject premises, as also that there were three other shops adjacent to the subject premises, and out of those three shops, two were being run jointly by the respondent and his brother, and one had been let out recently (then 2021) by the respondent, proving that there was no *bona fide* requirement of the subject premises on part of the respondent. It was also contended that there were suppressions in the Site Plan filed by the respondent, and certain mezzanine floor in the said premises recently let out to the adjacent shop, being an alternate accommodation, had been concealed by the respondent, as also some other spaces on the first floor had been concealed.

3. In response thereto, denying the aforesaid averments made by the petitioner, the respondent submitted that there was no concealment *qua* the Site Plan in the eviction petition, which had in fact been admitted by the petitioner in separate proceedings initiated by the respondent under *Section 14(1)(a)* and *(b)* of the Act, and the so-called mezzanine floor in the adjacent shop was not an alternate suitable accommodation, but under the exclusive control of the existing tenant in the adjacent premises, as also the first floor cannot be used for commercial purposes as per the Zonal Development Plan of the Delhi Development Authority.

4. Upon considering the above, as also hearing the arguments advanced by both sides, the learned ARC identified *three conditions* of



Section 14(1)(e) of the Act, viz. landlord-tenant relationship, *bona fide* requirement of the landlord and no alternate suitable accommodation available with the landlord, dismissed the application for leave to defend of the petitioner *vide* order dated 31.07.2024⁶.

5. Aggrieved thereby, the petitioner has preferred the present revision petition under *Section 25B(8)* of the Act seeking setting aside of the impugned order passed by the learned ARC.

6. On the very first day of listing thereof on 23.12.2024, this Court passed the following order:-

“... 6. *Learned Senior Counsel for the Petitioner/tenant further submits that in view of the fact that a correct site plan was not filed, the examination undertaken by the learned Trial Court was inadequate.*

7. *Learned Senior Counsel for the Petitioner/ tenant, on instructions, restricts his contentions to an examination on the aspect of the site plan and the availability of alternate suitable accommodation.*

8. *On this limited aspect, issue Notice.”*

[Emphasis Supplied]

7. Then, the respondent filed an application for early hearing (CM APPL.15930/2025) which was allowed by this Court on 25.04.2025. Now the petitioner has also filed a similar application for early hearing (CM APPL. 52638/2025). Considering the status involved, the present petition is taken up for hearing.

8. Mr. Gaurav Seth, learned counsel for the petitioner, relying upon the Site Plan annexed with the eviction petition filed by the respondent, leave to defend filed by the petitioner and the Partition Deed filed by the

⁶ hereinafter '*impugned order*'



respondent, submits that there are contradictions therein. He further submits that the subject premises are in fact not owned by the respondent but by his sister, as also, of the three other shops, two are owned by the respondent, wherein he and his brother are jointly running business.

9. Mr. Gaurav Seth then submits that the requirement urged by the respondent is not *bona fide* in nature, as the same is vague and unrealistic, amounting only to a mere state of mind or a wish. He lastly submits that the mezzanine floor in the adjacent shop, as well as the space available on the first floor which has been concealed by the respondent are alternate suitable accommodations, and the said issue has been decided by the learned ARC in a mechanical manner.

10. *Per contra*, Mr. Jagdeep Sharma, learned senior counsel for the respondent supporting the impugned order submits that there are no concealments on part of the respondent in the site plan. Also, the objection to the Site Plan by the petitioner is unfounded and baseless, especially, when the very same petitioner has admitted the very same Site Plan in the written statement(s)/ reply(s) filed by the petitioner to the two other eviction petitions under *Section 14(1)(a)* and *(b)* filed by the respondent. He submits that the said documents were duly filed before the learned ARC and have also been noted by the learned ARC in the impugned order.

11. Mr. Jagdeep Sharma, learned senior counsel then submits that there is no alternate suitable accommodation under the ownership or possession of the respondent as he only owns the subject premises. Out of the three adjacent shops, one of them is jointly owned by him and his sister, and in the remaining two shops, his brother is independently running his own business exclusively without any involvement of the respondent. He, once



again, submits that the same have also been noted by the learned ARC in the impugned order.

12. Mr. Jagdeep Sharma, learned senior counsel further submits that the mezzanine floor of the adjacent shop which has been leased out for the past several years, is not a separate space, but a part of the very same adjacent shop. Lastly, he submits that since the subject premises is in a property placed in a Pedestrian Shopping Street, any space on the first floor thereof cannot be used for commercial purposes. As such, there being no alternate suitable accommodation, the issue *qua* the same has rightly been decided in favour of the respondent by the learned ARC in the impugned order.

13. This Court, in terms of order dated 23.12.2024 passed by this Court, has heard learned (senior) counsels for the parties, as also gone through the pleadings and documents on record on the limited aspects of (i) the Site Plan filed by the respondent and (ii) the availability of alternate suitable accommodation.

14. *Qua* the Site Plan filed by the respondent, interestingly, the very same petitioner has admitted the very same Site Plan in the replies filed in two other eviction petitions being E.No.46/2019 and E.No.27/2018 under *Section 14(1)(a) and (b) of the Act* respectively *inter se* the very same parties, which has been categorically observed by the learned ARC as well. The petitioner cannot, thus, be allowed to blow hot and cold, and plead contrary to his own earlier taken stand. Even otherwise, and as correctly pointed out by learned senior counsel for the respondent, the learned ARC has still, for the sake of arguments, proceeded to consider the contrary Site Plan(s) filed by the petitioner, and held that, keeping in



view the subsequent Partition, Relinquishment and Sale Deeds, all of which were duly signed and registered, the division of possession amongst the respondent and his brother and sister was undoubted, and hence any inconsistencies, if there, were immaterial. Further, it was held that there were no material concealments in the Site Plan, since, even if the petitioner's best case is taken, some space on the first floor or the mezzanine of the leased out adjacent shop, were also held to be irrelevant for the purposes of the respondent's eviction petition based on the evidence on record. This Court does not find anything illegal/unreasonable in the above findings of fact, and no case to interfere with the same, at this stage, is made out.

15. In any event, it must be borne in mind that the respondent was required to identify the subject premises as also give a Site Plan, but it was not incumbent upon him to give the exact Site Plan under such circumstances. Once it was established that the respondent was the landlord of the subject premises, of which he was admittedly not in possession, the issue of minor inconsistencies in the Site Plan, if any, fades into insignificance. More so, as held in *Shakuntala Devi v. Mohan Das*⁷, even the non-filing of site plan may not be fatal to the case of a landlord, depending on the facts and circumstances of the case.

16. Therefore, the said issue *qua* the Site Plan filed by the respondent is discarded.

17. *Qua* the availability of *alternate suitable accommodation*, as per the settled position of law, it is not for any tenant like the petitioner, nor for this Court, to go into the aspect of suitability and/ or convenience and/ or



choice of the need, much less adequacy thereof, of any landlord like the respondent. Being the landlord, the respondent is the best judge to adjudge his means and necessity. The respondent was only to show that he had a genuine and sincere requirement for the subject premises, and which was not whimsical, imaginary and/ or fanciful. For that, the respondent had indeed made a categoric statement to that effect before the learned ARC, which the petitioner was unable to refute besides making bald, unsupported statements. In any event, it is trite that such mere bare statements will not come to the assistance of any tenant like the petitioner [*Ragavendra Kumar v. Prem Machinery & Co.*⁸; *Balwant Singh v. Sudarshan Kumar*⁹; *Kanhaiya Lal Arya v. Md. Ehsan & Ors.*¹⁰].

18. The respondent had taken retirement from service, and was interested in commencing readymade garment business, in the existing scenario, it was very much sufficient for the respondent to file eviction petition for eviction of the petitioner from the subject premises before the learned ARC. Under such circumstances, since the need of the landlord was *bona fide* it was not open for the petitioner to question the suitability of *alternate suitable accommodation*. This Court is in complete agreement with the findings of the learned ARC, which, while dealing with the availability of *alternate suitable accommodation*, has held as under:-

“12. Once the landlord has stated that it requires the tenanted premises for a particular use, the Courts are required to believe the statement to be true and genuine, unless and until it is shown by the tenant through cogent material that the requirement is fanciful or whimsical. Given such standard of scrutiny, this Court proceeds to

⁷ 2024:DHC:9368

⁸ (2000) 1 SCC 679

⁹ (2021) 15 SCC 75

¹⁰ 2025 SCC OnLine SC 432



examine the contentions of the respondent now with regards contending the need of the petitioner to be non-bonafide. The petitioner has stated that he has taken VRS from SAIL and now requires the tenanted premises for establishing his readymade garments business. He also stated that since taking VRS, he has been jobless and hence, is in requirement of the shop in question bonafidely. Nothing contrary to such assertions of the petitioner have been shown to the Court. Not only this, the petitioner has also stated that even his wife, though currently employed with SAIL as well, also proposes to leave the job and start her own business of ladies garments along with the petitioner from the tenanted premises only. The respondent it seems misread the said submission and stated that the wife of the petitioner wishes to occupy the adjoining shop, which is clearly not the case. Considering the averments on these lines therefore as to the requirement of the petitioner and his wife as well for that matter, the need is seen to be prima facie bonafide, A person who has taken VRS from a well paying job at a company like SAIL, which is a PSU and now desires to start bis own business in a market area such as Gandhi Nagar in Delhi, without anything being shown to the contrary can indeed be said to have a bonafide requirement and no fault can be found qua the same.”

[Emphasis Supplied]

19. Mere availability of other alternate accommodation is itself not the decisive factor for denial of eviction proceedings by the landlord, more so, since there are various factors like the size, location, access, purpose, viability, safety concerns, footfall, and/ or like, amongst others which have/ are to be taken into consideration while dealing with the aspect of availability of alternate suitable accommodation [*Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*¹¹; *Viran Wali v. Kuldeep Rai Kochhar*¹²; *Kanhaiya Lal Arya (supra)*].

20. In the present case, the respondent was able to show that the alternative accommodation(s) available were not meeting to his requirements. This Court is in complete agreement with the findings of the

¹¹ (1999) 6 SCC 222

¹² (2010) 174 DLT 328



learned ARC, which has held as under:-

“16. The respondent has claimed that the petitioner concealed the fact that he had an alternate accommodation ~ a mezzanine space available to him. above the tenanted premises which was not disclosed. In this regard, the petitioner has stated that the said portion is in fact the upper side portion within the 'adjoining shop' at the ground floor only and not any separate space. Further, the said adjoining shop as per the petitioner has already been disclosed to be tenanted by Md. Javed. In fact, it is also pointed out by the petitioner that he had fully disclosed that the said shop was jointly owned by the petitioner and his sister and therefore, not even exclusively owned by the petitioner. Not only that, it was also contended that the rent from the said shop also went to the sister of the petitioner only. It is seen that the petitioner has filed on record copies of rent agreements executed between him and his sister on one hand and Md. Javed on the other qua the years 2018 and 2019 with respect to the adjoining shop. In both such agreements, it is clearly stated in the property description that apart from the shop itself, 'a portion measuring 9ft X 25ft above the side shop' was also rented out, which is stated to be the mezzanine portion only. Considering the same, it is observed that the said mezzanine portion forms part of the overall portion of the adjoining shop itself: which is rented out to Md. Javed, as stated in the rent agreements as well. If that be so. the petitioner having stated that such adjoining shop was rented out to Md. Javed, being under the joint ownership of the petitioner and his sister, obviously entails that disclosure was properly and fully made, the mezzanine portion being included in the overall area of the adjoining shop itself. In such circumstances, the claim of the respondent that such a mezzanine space was available with the petitioner and not disclosed does not find favor with Court.

17. Apart from the above, it has also been stated by the respondent that the petitioner also has portions located at the first floor which again has not been disclosed. It is claimed that the space at such floor, being situated in Ashok Gali - a notified pedestrian commercial road, for all practical purposes can be utilized by the petitioner for his business, if so required. Such a claim of the respondent however is seen to be unjustified. This is so since the petitioner has filed on record copy of the Zonal Development Plan Zone (DIVISION) "E" East Delhi, DDA. As per the same, at point 74 of the list of roads/streets, Ashok Gali, Main Road Gandhi Nagar to Mahavir Chowk has been shown to be classified as a Pedestrian Shopping Street in Shahdara area. The same have not been denied by the respondent. Further, the petitioner has also filed on record



copies of response No. EE(B) [Sh.(S)ZoneJID No.365/2023/D- 74 dated 10.03.2023 obtained through RTI as per which at a Pedestrian Shopping Street, Commercial Activity is allowed Only on Ground Floor as per terms and condition of MPD-2021. (Running pg. nos. 395-413 of the paperbook) Such replies also stand undisputed. The property in question where the first floor space is being pointed out by the respondent is located in the same very Ashok gali and as such therefore, as per the official responses filed, portions at the floors above could not be used for commercial activity. In view of the same, the said portions cannot be stated to be alternate suitable accommodation available with the petitioner. Even the argument of the respondent qua such portions having not been disclosed by the petitioner, it is seen that it is not the case. This is so since the petitioner did say in his petition that the said spaces were being used by his brother. Considering the same, the assertion of the respondent in this regard as well that the petitioner did not fully disclose details qua such first floor portions is found not to be tenable.

18. Even in the worst case scenario and for argument's sake only, if it were to be assumed that the portions at the first second floor as aforesaid were indeed available also with the petitioner, even then it is seen that the petitioner has pointed out that the entrance for the said portions is from the backside through an extremely narrow lane which is not suitable. It is an accepted fact that a shop, business or enterprise on the ground floor receives nearly all the footfall in a market, than a shop on the first and second floor of a building. The psychology, nature and category of the prospective customers and clients, has to be kept in mind by a prudent business person before the start of a business enterprise. (Dhannalal vs Kalawatibai & On. (2002) 6 SCC 16; Jai Gopal & On. vs Vibh Banskal 236 (2017) DLT 382; Om Prakash Bajaj vs Chander Shekhar 102 (2003) DLT 746; and Uday Sbankar Upadhyay vs Naveen Mahesbwari Manu/C/1876/2009) If that be so, even if such portions on the first floor were also available, they would not have met the requirement of the petitioner and on that count as well therefore, the argument of the respondent would have been repelled.

[Emphasis Supplied]

21. Resultantly, the issue *qua* availability of alternate suitable accommodation with the respondent is also negated.
22. Lastly, this Court, while dealing with a revision petition under



Section 25B(8) of the Act is sitting in a revisionary jurisdiction and not in appellate jurisdiction. The parameters in both are widely different. This Court is only performing a supervisory function with a limited and defined scope of interference. This Court is not to reassess and/ or once again adjudicate on the merits and/ or substitute the findings of the learned ARC, unless, there is any error apparent in the impugned order or the findings therein are perverse, irregular, contrary, or there is misapplication of any statutory provisions [*Sarla Ahuja v. United India Insurance Co. Ltd*¹³, *Abid-Ul-Islam v. Inder Sain Dua*¹⁴]. The present is not an appeal.

23. In view of the above and the settled position of law, and since there is no infirmity, illegality or irregularity in the impugned order, this Court finds no plausible reason for interfering with the same.

24. Finding no merit therein, the present petition along with pending applications, is dismissed with no order as to costs.

25. Accordingly, the order of eviction *qua* the subject premises passed in favour of the respondent against the petitioner by the learned ARC *vide* the impugned order dated 31.07.2025 is affirmed.

SAURABH BANERJEE, J.

AUGUST 25, 2025

Ab

¹³ (1998) 8 SCC 119

¹⁴ (2022) 6 SCC 30