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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 12<sup>th</sup> May, 2026**Pronounced on: 6<sup>th</sup> July, 2026*+ RC.REV. 101/2026, CM APPL. 20127/2026, CM APPL. 20128/2026,  
CM APPL. 20129/2026, & CM APPL. 24388/2026

RAJINDER KUMAR GUPTA .....Petitioner

Through: Mr. Uttam Datt, Senior Advocate with  
Mr. Tanmay Nagar, Mr. Gurpreet  
Singh Sethi, Ms. Srishti Kamboj, Mr.  
Yasheshvi, Mr. Kumar Bhaskar and  
Mr. Naman Kumar, Advocates.

versus

SUSHILA DEVI JAIN (SINCE DECEASED) THROUGH HER LR  
SH. DEVENDER KUMAR JAIN .....RespondentThrough: Mr. Rajesh Yadav, Senior Advocate  
with Ms. Ruchika Vashist, Mr. Arvind  
Kumar Gupta, Ms. Pratima K. Gupta,  
Mr. Ishan Parashar, Mr. Ashish Singh  
& Mr. Abhiesumat Gupta, Advocates.**CORAM:****HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.****CM APPL. 21311/2026 (Delay)**

1. The present application under Section 5 read with Section 14 of the Limitation Act, 1963, has been filed on behalf of the petitioner/applicant seeking the following prayers: -



“In view of the facts and circumstances stated above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

a) Kindly condone the delay of 388 days in filing present Revision Petition against Eviction Order dated 06.07.2020 in RC ARC 6037/2016 titled as Smt. Sushila Devi Jain V/s Sh. Rajender Kumar Gupta.

b) To order to take the accompanying Revision Petition for hearing on merits.

(c) Any other further order or relief which this Hon'ble Court may deem fit and proper in the fact and circumstance of the case may also be passed/granted in favour of Petitioner and against the respondent.”

2. By way of the captioned petition filed under Section 25B(8) of the Delhi Rent Control Act, 1958<sup>1</sup>, the petitioner, *inter alia*, is seeking quashing of impugned eviction judgment dated 06.07.2020 passed by learned Rent Controller, South, Saket Courts, New Delhi, in **RC ARC 6037/2016** titled as, ‘Sushila Devi Jain v. Rajinder Kumar Gupta’, whereby, the eviction petition filed on behalf of the Late Sushila Devi Jain/respondent herein (since deceased and now represented through her Legal Representatives) was allowed, and an eviction order was passed against the petitioner herein in respect of demised premises, *i.e.*, Shop bearing Private No.2 of premises No.12/3, Yusuf Sarai, Main Market, New Delhi, measuring 10x45 feet. The reliefs sought in the captioned petition read thus: -

“It is, therefore, most respectfully prayed that this Hon'ble Court may please to:

a) accept the present Rent Control Revision with costs throughout;

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<sup>1</sup> For short, ‘DRCA’



b) set aside and quash the eviction order dated 06.07.2020 passed by the court of Sh. Sushant Changotra, RC, South Distt., Saket Courts, New Delhi in RC/ARC no.6037/16 titled as Smt. Sushila Devi Jain Vs Sh. Rajinder Kumar Gupta, in respect of shop bearing private no.2, of premises bearing no. 12/3, Yusuf Sarai, Main Market, New Delhi-110016.)

c) also to set aside and quash the order dated 25.09.2025 passed in Misc SCJ 21/2020, titled as Smt. Sushila Devi Jain Vs Sh. Rajinder Kumar Gupta, by the Court of Ms. Neha Priya, RC (SOUTH), Saket Courts, New Delhi.

d) and also, to set aside the order dated 14.03.2026 passed in EX .NO 236/2021 by the Court of Ms. Neha Priya, RC (SOUTH), Saket Courts, New Delhi, in the interest of justice.

e. Any other further order or relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed/granted in favour of the petitioners and against the respondent.”

### **BRIEF BACKGROUND**

3. The initial respondent-Lt. Sushila Devi Jain had initiated eviction proceedings against the petitioner herein in respect of demised premises. It was stated that her husband – Om Prakash Jain was landlord/owner of the demised premises, and after his demise, she became the owner of the same. The demised premises were let out to the father of the petitioner – Kishan Lal Gupta, and after his demise, the petitioner became the occupant of the premises in question. The subject eviction proceedings were instituted on behalf of Sushila Devi by her son-Devinder Kumar Jain as she had executed special power of attorney in his favour. It was stated that she was suffering from various ailments like hypertension and heart disease and it was difficult



for her to come from Kolkata to take care of her properties situated in Delhi. The demised premises were required as she wanted to settle her grandson before her last breath. Her grandson – Shubham Jain was then 26 years old and had completed his BBA and CA and was finding it difficult to get a job and to start his own office as he had articleship experience and had also undergone the mandatory computer course to start his own practice for which space was required for establishing an office. It was stated that grandson-Shubham Jain is dependent upon her for starting his business as the son of the said, respondent was also not having any alternative shop in order to establish business for his son.

4. An application seeking leave to defend was filed on behalf of the petitioner and the same was allowed *vide* order dated 26.08.2015. Thereafter, written statement was filed on behalf of the petitioner taking certain preliminary objections as well as disputing *bonafide* requirement and non-availability of alternate suitable accommodation with the respondent/landlady. Trial was held, and *vide* impugned judgment dated 06.07.2020, learned Rent Controller concluded that initial respondent has proved all the ingredients of Section 14(1)(e) of the DRCA, and accordingly, passed an eviction order in her favour and against the petitioner herein in respect of demised premises.

5. On 27.07.2020, the petitioner herein then filed a review petition, **Misc SCJ 21/2020**, under Order XLVII Rule 1 of the CPC before learned Rent Controller seeking review of judgment of eviction dated 06.07.2020, on the ground that subsequent to the passing of impugned judgment, new important evidence and facts came to the knowledge of the petitioner which had bearing



on the merits of the case. Learned Rent Controller *vide* impugned order dated 25.09.2025, dismissed the review petition filed by the petitioner as no ground for review was made out. During the pendency of the review petition, respondent/decreed holder-Sushila Devi Jain passed away on 18.05.2021, and *vide* order dated 26.02.2022 passed by learned RC, in an application under Order XXII Rule 3 of the CPC, her legal representative, *i.e.*, her son-Devendra Kumar Jain, was impleaded as the demised premises were alleged to have been devolved upon him as per Will dated 21.12.2018.

6. In the review petition, on 07.12.2024 before learned Rent Controller fresh *vakalatnama* was filed, and learned Rent Controller on said date closed the right to advance oral arguments, and reserved the order in view of the written submissions which were already on record. Against this order dated 07.12.2024, an appeal, RCT ARCT No.26 of 2024, was filed by the petitioner before learned District Judge, South, Saket, which was dismissed *vide* judgment dated 20.12.2024, which was further challenged by the petitioner by way of a petition, **CM(M) 4116/2025**, before this Court. Learned Coordinate Bench of this Court *vide* order dated 31.07.2025, gave opportunities to the parties to argue the review application afresh.

7. Against the order dated 25.09.2025, petitioner preferred an appeal, **RCT ARCT No.13/2025**, before learned Rent Control Tribunal under Section 38 of the DRCA which was subsequently, on 27.03.2026, withdrawn by the petitioner/appellant with liberty to 'take recourse to appropriate remedy as permissible in law; of course subject to law of limitation'.



8. It is pertinent to note that, in the meanwhile, on 08.04.2021, execution proceedings, **EX. 236/2021**, were initiated on behalf of the respondent wherein objections raised on behalf of the petitioner/judgment debtor were dismissed by learned Executing Court.

9. The petitioner herein filed the present petition on 24.03.2026, and the same was listed for hearing on 30.03.2026. The present application, **CM APPL.21311/2026**, under Section 5 read with Section 14 of the Limitation Act, 1963, filed on behalf of the petitioner/applicant was listed before this Court on 06.04.2026.

### **SUBMISSIONS ON BEHALF OF THE PETITIONER/APPLICANT**

10. Learned Senior Counsel for the petitioner/applicant has made the following submissions in support of the latter's case: -

i) The impugned eviction judgment was passed on 06.07.2020, *i.e.*, during the period when Covid-19 restrictions were imposed. The petitioner, on 25.07.2020, well within the prescribed time period preferred an application under Order XLVII of the CPC seeking review of judgment dated 06.07.2020. It is submitted that subsequent to the passing of the impugned eviction judgment, new important evidence and facts came to the knowledge of the petitioner which had bearing on the merits of the case, and notice in the review application was issued on 28.07.2020. It is further submitted that during the pendency of the review application, original respondent-Sushila Devi Jain expired on 18.05.2021, which added to further delay in disposal of



the review application. It is further submitted that the petitioner has been diligently pursuing his remedy under law, and *vide* order dated 31.07.2025 passed in **CM(M) 4116/2024**, learned Coordinate Bench had granted leave to the petitioner to raise additional grounds on account of subsequent events. It is further submitted that the impugned eviction judgment was passed on 06.07.2020, and in view of the judgment passed by the Hon'ble Supreme Court in **In Re- Cognizance on Extension of Limitation**<sup>2</sup>, he is entitled to benefit of extension of limitation and period from 15.03.2020 to 28.02.2022 is to be excluded for the purposes of limitation. Thus, the period of limitation for assailing the judgment dated 06.07.2020 for filing the revision petition will commence from 01.03.2022, and would expire on 28.02.2025.

ii) It is further submitted that during the pendency of review application, an application under Order VIII Rule 1A of the CPC dated 19.11.2020 filed on behalf of the petitioner for placing on record certain documents was allowed *vide* order dated 20.09.2025, and documents, namely, MCF Tax Bill, copy of ledger record of property, F7/1, DLF City, Phase-I, Gurugram, copy of proper assessment report of premises, JE1160, Bharat Diamond, Mumbai, copy of Cibil report of Mr Shubham Jain, copy of CBN Pan base query, photographs of property No.122/A-17, Gautam Nagar, Delhi, copy of MCG Tax Bill of property situated at Gurugram, copy of relinquishment deed were taken on record. It is pointed out that this application was allowed on no objection given on behalf of original respondent/landlord. Attention of this Court has been drawn by learned Senior Counsel for the petitioner towards the following observation made by learned Rent Controller in paragraph 66 of

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<sup>2</sup> (2022) 3 SCC 117: 2022 SCC OnLine SC 27



impugned judgment dated 06.07.2020: -

“66. Moreover, it is necessary to note that in the evidence, the respondent completely abandoned the aforementioned plea that Sh. Shubham Jain was employed in M/s Accenture. In the cross-examination of PW-2 Sh. Devinder Jain, a case was set up by the respondent by putting a suggestion that Sh. Shubham Jain is having ample space and he is already running a business. Thereafter, in his evidence by way of affidavit, the respondent categorically deposed that Sh. Shubham Jain was carrying on business from JE-1160, Bharat Diamond Building, Bandra, Mumbai. The respondent did not plead or depose that earlier Sh. Shubham Jain was working in M/s Accenture and subsequently he started his own business in Mumbai. Infact in the evidence, the respondent introduced completely new plea which is contradictory to the earlier plea that he was employed in M/s Accenture. The said plea cannot be accepted because firstly it is beyond pleadings and secondly besides making bald assertion, the respondent did not bring forth any cogent evidence to substantiate the same.”

It is further submitted that learned RC had erred in concluding, in the impugned eviction judgment dated 06.07.2020, that the plea of the petitioner that Shubham Jain is having ample space and is already running a business, cannot be accepted. It is submitted that there was an error apparent on the face of the record and for rectification of the same, the aforesaid application under Order VIII Rule 1A of the CPC dated 19.11.2020 was filed on behalf of the petitioner for placing on record certain documents, as noted hereinbefore, to show that grandson of the landlord-Shubham Jain was already running a business and was having ample space to satisfy his need and requirement.

**iii)** Learned Senior Counsel for the petitioner has further submitted that the latter had filed an application under Section 151 of the CPC for placing on record subsequent developments, *i.e.*, the death of original respondent and the alleged Will dated 21.12.2018 propounded by one legal heir-Mr. Devender



Kumar, and the filing of possession suit by supreme landlords-Rohit Dhankard & Ors., who served a legal notice dated 26.12.2020 to the petitioner herein claiming themselves to be the supreme owner landlords of the demised premises/suit property after filing of the review application by the petitioner herein. It is further submitted that during the pendency of the review petition, it came to the knowledge of the petitioner herein that the respondent-Devender Kumar Jain has impleaded himself as the only legal heir of Late Smt. Sushila Jain as per Will dated 21.12.2018, and in execution proceedings, said Will has been disputed by other legal heirs of the original respondent/landlord, and owing to such subsequent developments, the eviction judgment dated 06.07.2020 cannot be executed at all. It is further submitted that as per Will dated 21.12.2018 the demised premises along with 2<sup>nd</sup> floor has been bequeathed to Devender Kumar who is the absolute owner of the demised premises in terms of the alleged Will, and the need for Shubham Jain can no longer be considered in terms of transfer of property in favour of 3<sup>rd</sup> party as said Shubham for whose *bonafide* requirement, the subject petition was filed is the attesting witness to the said Will and was well aware of the fact that the original respondent had bequeathed the demised premises to Devender Kumar which was totally contradictory to the stand taken by the respondent in the eviction petition. It is further pointed out that the original respondent was survived by five sons and one daughter and her legal heirs were disputing the execution of the aforesaid alleged Will. It is further argued that the supreme landlord-Rohit Dhankard & Ors. who had served a legal notice dated 26.12.2020 had also filed a suit for possession titled as, 'Roshni Devi & Ors. v. Jai Pal Jain & Ors.' which is pending in the Court of learned ADJ, Saket Court, New Delhi, against the respondent herein



in respect of the suit property where the demised premises are situated claiming themselves to be owners of the demised premises. It is further submitted that aforesaid facts were placed on record by the petitioner during the pendency of review proceedings, and an opportunity was granted by learned Coordinate Bench *vide* order dated 31.07.2025 passed in **CM(M) 4116/2024**, had granted leave to the petitioner to raise additional grounds on account of subsequent events before learned RC which were ignored by learned RC while passing the impugned judgment dated 06.07.2020. It is case of the petitioner that said facts were also not taken into consideration while passing order dated 25.09.2025 in review application by learned RC.

iv) The case of the petitioner is that there is no delay on his part in filing the present petition, if the period for filing the same is reckoned from the order dated 25.09.2025 whereby, his review application was dismissed. It is further the case of the petitioner that the present application has been filed *bonafidely* to avoid the technicality on account of delay in challenging the impugned eviction judgement dated 06.07.2020. It is submitted that the petitioner was *bonafidely* and diligently pursuing his legal remedies in accordance with law and owing to such genuine reasons as explained herein before, the alleged delay, if any, had occasioned. It is further the case of the petitioner that the limitation period to challenge the eviction order dated 06.07.2020 by way of a revision petition under Section 25B (8) of the DRCA is 3 years as provided under Article 137 of the Limitation Act, 1963. Reliance has also been placed on judgment passed by learned Coordinate Bench in



**Nira Garg v. Om Prakash Grover**<sup>3</sup>, particularly on paragraphs 8, 8.1, and 8.2 thereof, to contend that limitation period to file a petition under Section 25B (8) of the DRCA is 3 years under Article 137 of the Limitation Act, 1963.

v) It is further the case of the petitioner that he preferred an appeal, **RCT ARCT 13/2025**, under Section 38(1) of the DRCA against order dated 25.09.2025, whereby, his application seeking review under Order XLVII of the CPC of judgment dated 06.07.2020 was dismissed. During the pendency of said appeal, issue with respect to maintainability had transpired, and the petitioner withdraw the appeal with liberty to avail appropriate remedy as available under law *vide* order dated 27.03.2026. It is submitted that the petitioner was pursuing the appeal under *bonafide* mistake before Rent Tribunal, and therefore, he being a lay man cannot be penalised for pursuing wrong remedy and cannot be rendered remediless. Thus, the petitioner is entitled for exemption of limitation period till 27.03.2026 while he was pursuing appeal filed under Section 38(1) of the DRCA.

vi) It is further submitted that the present revision petition was filed on 24.03.2026, and there is delay of 1 year 23 days, *i.e.*, 01.03.2025 to 23.03.2026, in filing the same. It is further submitted that the application seeking review of judgement dated 06.07.2020 was filed by the petitioner within limitation period, and same was pending and was finally decided on 25.09.2025. The delay which has occasioned in filing of the captioned petition was owing to various reasons including restrictions of COVID-19, demise of

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<sup>3</sup> 2025 SCC OnLine Del 939



original respondent, delay in disposal of review application by learned RC, which were beyond the control of the petitioner. Thus, the delay occasioned was not attributable to the petitioner in view of the facts and circumstances of the present case.

vii) It is further submitted that the petitioner was pursuing his remedies before Rent Tribunal on the basis of legal advice and was diligently pursuing the appeal filed before the Tribunal. Thus, the petitioner is entitled to exemption under Section 14 of the Limitation Act, 1963, as he was under belief of *bonafide* mistake was pursuing his appeal. It is further submitted that the delay in filing the present petition was neither deliberate nor intentional, and the time spent was due to overlapping and parallel pending proceedings before wrong forum, *i.e.*, Rent Appellate Tribunal. It is further submitted that the petitioner has good *prima facie* case on merits, and will suffer an irreparable injury if the delay is not condoned, and the present petition is dismissed on the basis of this technicality.

viii) Reliance has been placed on the judgment passed by learned Coordinate Benches of this Court in **Bata India Limited v. Smt. Sarla Sharma Through Lrs. & Ors.**<sup>4</sup>, particularly on paragraphs 14, 15, 27, and 29 thereof, and **Mohd. Arshad & Ors. v. Syed Mohd Yahaya Nizami**<sup>5</sup>, particularly on paragraphs 2, 7, and 55 thereof, to contend that the present petition is maintainable against the impugned order dated 25.09.2025 whereby, the review application filed by the petitioner was dismissed.

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<sup>4</sup> 2021 SCC OnLine Del 2538

<sup>5</sup> 2024 SCC OnLine Del 7173



ix) Reliance has also been placed on judgment passed by the Hon'ble Supreme Court in **Karnataka State Electronics Developments Corporation Ltd v. Kumaon Entertainment and Hospital Pvt. Ltd.**<sup>6</sup> particularly on paragraph 25 thereof, to contend that the time spent by the petitioner in diligently pursuing review proceedings before learned RC and appeal before learned Rent Appellate Tribunal *bonafidely* should be excluded, and benefit under Section 14 of the Limitation Act, 1963, should be extended to the petitioner.

x) Reliance has also been placed on judgment passed by the Hon'ble Supreme Court in **DSR Steel Pvt. Ltd. v. State of Rajasthan & Ors.**<sup>7</sup>, particularly on paragraph 25.3 thereof, to contend that the time spent by the petitioner in diligently pursuing the remedy by way of review may in appropriate cases be excluded from consideration while condoning the delay in filing the appeal/revision.

11. Reliance has also been placed on following precedents by learned Senior Counsel in support of aforesaid contentions: -

- a) **Rahimal Bathu and Ors v. Ashyal Beevi**<sup>8</sup>;
- b) **Bhivchandra Shankar More v. Balu Gangaram More and Ors.**<sup>9</sup>;

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<sup>6</sup> 2023 SCC OnLine SC 1250

<sup>7</sup> (2012) 6 SCC 782

<sup>8</sup> (2024) 20 SCC 328

<sup>9</sup> (2019) 6 SCC 387



- c) **Hasmat Rai and another v. Raghunath Prasad<sup>10</sup>;**
- d) **Ramesh Kumar v. Kesho Ram<sup>11</sup>;**
- e) **Deena Nath v. Pooran Lal<sup>12</sup>;**
- f) **Sheshambal thr LRs v. Chelur Corporation Chelur Building and Ors.<sup>13</sup>;**
- g) **S.P. Chelgal Varata Naidu v. Jagannath and Ors.<sup>14</sup>;**
- h) **Mangat Ram and Anr. v. Sardar Meharban Singh and Ors.<sup>15</sup>;**
- i) **D. Satyanarayan v. P. Jagdish<sup>16</sup>;**
- j) **Munisami v. Raghunatha<sup>17</sup>;**
- k) **Kundan v. Gurudutta<sup>18</sup>;**
- l) **Navin Chander v. Union of India<sup>19</sup>;**
- m) **Sh. Ranbir Yadav v. Life Insurance Corporation of India<sup>20</sup>;**
- n) **M/s Narain Jewlers v. Col Sohan Singh & Ors.<sup>21</sup> .**

**SUBMISSIONS ON BEHALF OF THE RESPONDENT/NON-APPLICANT**

**12.** Learned Senior Counsel for the respondent/non-applicant, while

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<sup>10</sup> 1981 (3) SCC 103

<sup>11</sup> 1992 SUPP (2) SCC 623

<sup>12</sup> (2001) 5 SCC 705

<sup>13</sup> 2010 3 SCC 470

<sup>14</sup> 1994 1 SCC 1

<sup>15</sup> (1987) 4 SCC 319

<sup>16</sup> (1987) 4 SCC 424

<sup>17</sup> (1991) 2 SCC 139

<sup>18</sup> (1989) 1 SCC 522

<sup>19</sup> (2018) SCC OnLine Del 9902

<sup>20</sup> (2018) SCC OnLine Del 11287

<sup>21</sup> (2018) SCC OnLine Del 12905



refuting the case of the petitioner/applicant has made the following submissions in support of the respondent's case: -

i) The petitioner has misused the process by adopting dilatory tactics and had successfully delayed the disposal of the review application despite being well aware of the fact that properties were maintained by the respondent. It is further submitted that the petitioner has been enjoying the demised premises even after passing of an eviction judgment/order against him and even without paying market rent after expiry of six months from the passing of impugned eviction judgement. It is further submitted that during the review proceedings, there was no stay on the operation of eviction judgment dated 06.07.2020, and execution proceedings initiated on behalf of the respondent(s) were also pending. It is further submitted that the petitioner had delayed the disposal of execution proceedings as objections under Order XXI Rule 47 of the CPC against the said judgment were filed by the petitioner through one Amit Dhankard on 04.12.2021. It is further submitted that the petitioner was neither diligently pursuing the review proceedings, nor the execution proceedings. Learned Senior Counsel during the course of arguments had handed over a table of list of dates of events to demonstrate that the proceedings were delayed on account of petitioner's conduct. The relevant dates and events from the said table read thus: -

28.07.2020	Review application filed. Notice issued to the petitioner, i.e., Sushila Devi.
27.11.2020	Another application filed under Order VIII Rule 1A CPC read with Order VII Rule 14 CPC by the non-applicant.



31.03.2021 to 02.07.2021	Covid Protocol and en-bloc dates were given.
04.08.2021	It was intimated to the Hon'ble Court that Smt. Sushila Devi died. The review applicant sought time to implead the legal heirs of the deceased Smt. Sushila Devi Jain.
17.08.2021	Application under Order 22 Rule 3 CPC was filed.
04.12.2021	Non-applicant filed yet another application to bring on record subsequent development.  Arguments on application under Order 22 Rule 3 CPC were heard and the matter was posted for orders on 07.01.2022.
07.01.2022	Matter was at the stage of Order on application under Order 22 Rule 3 CPC. However, on submission of the parties, the application was treated under Order 22 Rule 4 CPC. Review applicant raised objection with regard to the issuance of notice to all the legal heirs. The Ld. Court observed that objections by all the legal heirs has been filed in the execution petition to cut short the controversy of the Ld. Court and asked all the legal heirs to appear through VC.
13.01.2022	Statement of legal heirs were recorded.
26.02.2022	Ld. Court allowed application under Order 22 Rule 3 CPC.
09.09.2022	Application for recall of order dated 26.02.2022 was filed and was dismissed.
28.04.2023	Matter was listed for arguments. However, the review applicant took the date on the ground that RC Rev. No. 210/2020 titled as "Sushila Devi Vs. Adesh Kumar Gupta" is pending before the Hon'ble High Court. The respondent did not argue the matter, but the petitioner i.e., Smt. Sushila Devi Jain was ready to argue the matter. Copy of the order dated 28.04.2023 passed by the Ld. Court is annexed



	herewith as Annexure R-2.
01.07.2023	Again time was sought by the review applicant for placing on record the subsequent documents and the matter was adjourned for 15.07.2023. Copy of the order dated 01.07.2023 passed by the Ld. Court is annexed herewith as Annexure R-3.
15.07.2023	Put up for order on 19.08.2023.

ii) It is submitted that notice in the review application was issued on 15.09.2020, and an application under Order VIII Rule 1A of the CPC as an attempt to delay the disposal of review application was filed by the petitioner on 19.12.2020. It is further submitted that the original respondent had passed away on 18.05.2021 and time was taken by the petitioner on several occasions to address arguments in the application under Order XXII Rule 3 of the CPC for impleading the LRs of original respondent-Sushila Devi Jain. It is further submitted that another application for placing on record subsequent events during the review proceedings was filed by the petitioner on 28.11.2022. Said application was dismissed by learned RC *vide* order dated 27.07.2024. It is pointed out that during review proceedings, petitioner filed an appeal under Section 38(1) of the DRCA against the order dated 27.07.2024 passed by learned RC which was dismissed by learned Rent Tribunal on 16.10.2024. Thereafter, new counsel was engaged by the petitioner to address arguments in review application. Learned RC closed the right of the petitioner to address oral arguments on 07.12.2024 and reserved the order in view of written submissions already placed on record. Said order was challenged by learned RC in appeal before learned Rent Tribunal, which was dismissed *vide*



judgment dated 20.12.2024 passed by learned District Judge. It is further submitted that the petitioner was not diligent in pursuing his case, and therefore, the application seeking condonation of delay is liable to be dismissed.

iii) It is further submitted that the petitioner is seeking condonation of period spent before learned Rent Tribunal in appeal preferred against order 25.09.2025; however, learned Rent Tribunal on the very first hearing, *i.e.*, 04.12.2025, had put the petitioner to notice that the said appeal is not maintainable and the appropriate remedy to be exercised is revision. It is further submitted that the petitioner himself chose to proceed with the said appeal and therefore is not entitled to benefit under Section 14 of the Limitation Act. It is the case of the respondent that the period of limitation to file the present revision petition had expired on 06.07.2023, and the conditions prevailing during COVID-19 pandemic did not prevent the petitioner from interacting with his counsel and taking recourse to appropriate remedies in accordance with law, and therefore, the judgment of Hon'ble Supreme Court in **In Re- Cognizance on Extension of Limitation**<sup>22</sup> (*supra*), would not be applicable to the present case. Reliance has been placed on a judgment passed learned Coordinate Bench of this Court in **HT Media Limited & Anr. v. Barinlink International, Inc. & Anr.**<sup>23</sup>, in support of this contention.

iv) Reliance has been placed on the judgment passed by Hon'ble Supreme

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<sup>22</sup> (2022) 3 SCC 117: 2022 SCC OnLine SC 27

<sup>23</sup> 2021 SCC OnLine Del 5398



Court in **Rabinder Nath Samuel, Dawson v. Sivakasi & Ors.**<sup>24</sup>, to contend that benefit of Section 14 of the Limitation Act to a party, who persisted in earlier proceedings, despite repeated objections being taken by the opposite party cannot be granted. It is submitted that in the present case, on the very first date of hearing before learned Rent Tribunal objection with respect to maintainability of the appeal assailing order dated 25.09.2025 was taken and despite being the same, it was withdrawn belatedly after arguments were addressed by the petitioner.

v) In these circumstances, it is submitted that the present application is to be dismissed and the petitioner is not entitled to benefit under Section 14 of the Limitation Act, 1963, for condonation of delay in filing the captioned revision petition.

**13.** Reliance has also been placed on following precedents by learned Senior Counsel in support of aforesaid contentions: -

- a) **Brainlink International, INC & Anr. v. HT Media Limited & Anr.**<sup>25</sup>;
- b) **Balwant Singh (Dead) v. Jagdish Singh and Ors.**<sup>26</sup>;
- c) **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**<sup>27</sup>;
- d) **Sesh Nath Singh and Anr. V. Baidyabati Sheoraphuli Co-operative**

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<sup>24</sup> (1973) 3 SCC 381

<sup>25</sup> Special Leave to Appeal (C) No. 3579/2022

<sup>26</sup> (2010) 8 SCC 685

<sup>27</sup> (2012) 5 SCC 157



Limited & Anr.<sup>28</sup>;

e) **Suryachakra Power Corporation Ltd. V. Electricity Department**<sup>29</sup>.

### ANALYSIS AND FINDINGS

14. Heard learned Senior Counsels for the parties, and perused the record.

15. The case of the petitioner is that there is no delay on his part in filing the present petition, if the period for filing the same is reckoned from the order dated 25.09.2025 whereby, his review application was dismissed. It is further the case of the petitioner that the present application has been filed *bonafidely* to avoid the technicality on account of delay in challenging the impugned eviction judgement dated 06.07.2020. It is submitted that the petitioner was *bonafidely* and diligently pursuing his legal remedies in accordance with law and owing to such genuine reasons as explained herein before, the alleged delay, if any, had occasioned. The limitation to challenge an order/judgement by way of revision petition under Section 25B (8) of the DRCA is three years as held in **Jai Prakash v. Jean Conea**<sup>30</sup>.

16. It is also not in dispute that Hon'ble Supreme Court **In Re-Cognizance on Extension of Limitation** (*supra*) had given benefit of extension of limitation from 15.03.2020 to 28.02.2022. The period of limitation, therefore, for challenging the judgment dated 06.07.2020 for filing the revision petition would have commenced from 01.03.2022 and would

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<sup>28</sup> (2021) 7 SCC 313

<sup>29</sup> (2016) 16 SCC 152

<sup>30</sup> Civil Misc. Appeal No.1724 of 1980, order dated 18-11-1980 (Del)



have expired on 28.02.2025. The review application filed by the petitioner in exercise of remedy available to him under Section 25B (9) of the DRCA cannot said to be *malafide* only because the same was subsequently dismissed after a substantial period of five years. In **DSR Steel Pvt. Ltd. (supra)**, the Hon'ble Supreme Court while determining the issue of limitation in respect of an appeal filed against an original order of Tribunal against which a review petition had also been dismissed, had observed and held as under: -

“25. Different situations may arise in relation to review petitions filed before a court or tribunal.

**25.1.** One of the situations could be where the review application is allowed, the decree or order passed by the court or tribunal is vacated and the appeal/proceedings in which the same is made are reheard and a fresh decree or order passed in the same. It is manifest that in such a situation the subsequent decree alone is appealable not because it is an order in review but because it is a decree that is passed in a proceeding after the earlier decree passed in the very same proceedings has been vacated by the court hearing the review petition.

**25.2.** The second situation that one can conceive of is where a court or tribunal makes an order in a review petition by which the review petition is allowed and the decree/order under review is reversed or modified. Such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneous with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. The decree so vacated reversed or modified is then the decree that is effective for the purposes of a further appeal, if any, maintainable under law.

**25.3.** The third situation with which we are concerned in the instant case is where the revision petition is filed before the Tribunal but the Tribunal refuses to interfere with the decree or order earlier made. It simply dismisses the review petition. The decree in such a case suffers neither any reversal nor an alteration or modification. It is an order by which the review petition is dismissed thereby affirming the decree or order. In such a contingency there is no



question of any merger and anyone aggrieved by the decree or order of the Tribunal or court shall have to challenge within the time stipulated by law, the original decree and not the order dismissing the review petition. Time taken by a party in diligently pursuing the remedy by way of review may in appropriate cases be excluded from consideration while condoning the delay in the filing of the appeal, but such exclusion or condonation would not imply that there is a merger of the original decree and the order dismissing the review petition.”

(emphasis supplied)

17. Learned Senior Counsel appearing on behalf of the respondent had vehemently argued that the petitioner cannot get benefit of pendency of the review petition for the purposes of condonation of delay inasmuch as the same was a *malafide* attempt to delay the proceedings so that the respondent could not reap the benefit of the judgment of eviction dated 06.07.2020. Reliance was also placed on the judgment rendered by learned Single Bench of this Court in **HT Media Limited & Anr. v. Barinlink International, Inc. & Anr. (supra)** to submit that the extension of limitation period in terms of judgment of the Hon'ble Supreme Court in **In Re- Cognizance on Extension of Limitation (supra)** would not be available to the petitioner as the Covid-19 *pandemic* did not actually affect the petitioner from interacting with the counsels and take recourse to appropriate proceedings inasmuch as review petition was filed by him, and had been pursued by the petitioner before the concerned Court/learned RC. However, the fact remains that the petitioner could not have filed the review petition and revision petition simultaneously. Review petition, as noted hereinabove, was filed within prescribed limitation time and had to be brought to its logical end for the petitioner to challenge the impugned judgment dated 06.07.2020. The delay in disposal of the review petition has been attributed by the learned Senior Counsel for the respondent



to the conduct of the petitioner in moving frivolous applications and raising unnecessary objections to the impleadment of the legal heirs of the original respondent. Learned Senior Counsel for the respondent had placed on record a list of dates in order to demonstrate the attempts made by the petitioner at various stages during the pendency of the review petition in order to delay the same. A perusal of the aforesaid list of dates would show that the proceedings were being adjourned not only on account of petitioner's applications/objections; but also, for other reasons, including on account of COVID-19 protocol when *en-bloc* dates were given. It is also an admitted fact that there was no stay of operation of the impugned judgment dated 06.07.2020 passed in the aforesaid proceedings in the review petition and the respondent had parallelly initiated execution proceedings with regard to the same.

**18.** In view of the aforesaid judgment of Hon'ble Supreme Court in **DSR Steel Pvt. Ltd. (*supra*)**, the period of limitation for challenging the original order would start from date of the order itself and not from the date of the dismissal of the review petition. However, as noted above, the Hon'ble Supreme Court has held that, in cases, where the review petition had been pursued diligently, then the benefit of the said period would be given for the purposes of limitation. Taking legal recourse to a remedy available in law, cannot be said to be *malafide* exercise. Outcome of said remedy would have no bearing on the issue of limitation as in the present case. Delay in proceedings cannot be solely attributed to the petitioner in order to deny the benefit of the said period for computing the prescribed period of limitation. The period for the challenging the impugned judgment dated 06.07.2020 after



giving the benefit of judgment of Hon'ble Supreme Court in **In Re-Cognizance on Extension of Limitation** (*supra*) would end on 28.02.2025, and since the review petition was pending and was disposed of on 25.09.2025, further period from 01.03.2025 till 25.09.2025 would not be reckoned in computing limitation for challenging the impugned judgment dated 06.07.2020 and the benefit of the same would be given to the petitioner. Thus, the said judgment dated 06.07.2020 ought to have been challenged by the petitioner immediately after dismissal of review application *vide* order dated 25.09.2025 but it was not done.

**19.** It is pertinent to note that the order of dismissal of the review petition was challenged by the petitioner by way of an appeal, **RC ARCT No. 13/2025**, before learned Rent Control Tribunal under Section 38 of the DRCA, and the same was dismissed as withdrawn with liberty to take recourse to appropriate remedy as permissible in law *vide* order dated 27.03.2026. It is the case of the petitioner that he is also entitled to exemption of the said period as the aforesaid exercise of the remedy of appeal under Section 38 of the DRCA before learned RCT was under *bonafide* mistake. The appeal was filed by the petitioners on 04.12.2025. Learned Senior Counsel for the respondent had pointed out that on the very first date of hearing, *i.e.*, on 04.12.2025, in the said appeal, learned RCT had raised issue of maintainability, and time was given to learned counsel for the petitioner to file written submissions alongwith relied upon precedents and the matter was, thereafter, listed for 05.01.2026. Learned Senior Counsel for the respondent has placed on record various ordersheets of the learned RCT showing that on 05.01.2026, petitioner had sought further time to place on record the written



submissions, and had also moved an application under Order XXI Rule 22 read with Section 151 of the CPC for placing on record substantial question of law by way of additional affidavit. Learned RCT further adjourned the matter for the petitioner to file written submissions. Thereafter, the matter was adjourned from 03.02.2026 till 06.03.2026 on the request of the petitioner to place on record more precedents, and finally, the said appeal was disposed of as withdrawn on 27.03.2026 with liberty as noted hereinbefore.

**20.** Section 14 of the Limitation Act, 1963, reads as under: -

**“14. Exclusion of time of proceeding bona fide in court without jurisdiction.—**(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

**(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.**

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

*Explanation.* —For the purposes of this section,—



(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.”

**(emphasis supplied)**

**21.** To bring the case of the petitioner within Section 14(2) of the Limitation Act, 1963, it was incumbent upon the petitioner to show that the proceedings were prosecuted “for the same relief” and in “good faith”. It is pertinent to note that impugned eviction judgment dated 06.07.2020 was not challenged after the dismissal of the review vide order dated 25.09.2025 by learned RC. As already noted hereinbefore in **DSR Steel Pvt. Ltd. (supra)**, the Hon’ble Supreme Court has held that in case the review petition is dismissed, there is no question of any merger and anyone aggrieved by the original decree/order of the Tribunal or Court shall have to challenge within the time stipulated by law, the original decree and not the order dismissing the review petition. Therefore, the limitation to challenge the original eviction judgment would commence from 06.07.2020 and as already noted hereinbefore, the same, even after giving benefit of **In Re- Cognizance on Extension of Limitation (supra)** expired on 28.02.2025. Further, even if, the period till the passing of order/disposal of review application, *i.e.*, 25.09.2025, is excluded, then also, the present petition *qua* judgment dated 06.07.2020 is time barred by 180 days as the present petition is dated 24.03.2026. The petitioner had not challenged said judgment dated 06.07.2020 after dismissal of the review application *vide* order dated 25.09.2025.



**22.** After dismissal of review application/petition, the petitioner could have separately challenged the original eviction judgment dated 06.07.2020. Even in the present petition, the petitioner has challenged the eviction judgment dated 06.07.2020, order dated 25.09.2025 whereby, review application was dismissed, and order dated 14.03.2026 passed in Execution proceedings together.

**23.** The petitioner had challenged the order dated 25.09.2025 whereby, the review application was dismissed by way of an appeal, **RC ARCT 13/2025**, before learned Rent Control Tribunal. The said appeal was filed and listed for hearing on 04.12.2025, and learned Rent Control Tribunal on the first date of hearing, i.e., 04.12.2025, had put the petitioner to the notice as to how the said appeal under Section 38 of the DRCA was maintainable. The petitioner still did not challenge the eviction judgment dated 06.07.2020 by way of a petition under Section 25B (8) of the DRCA. In any case, the benefit of Section 14(2) of the Limitation Act cannot be granted to the petitioner as before learned Rent Control Tribunal order dated 25.09.2025 was challenged. The judgment dated 06.07.2020 and order dated 25.09.2025 are two distinct and separate orders. The reliefs sought in prayer '(b)' of the instant petition is with respect to judgment dated 06.07.2020 and not order dated 25.09.2025 which was challenged way of an appeal under Section 38 of the DRCA before learned Rent Control Tribunal. Thus, the proceedings in appeal before the learned Rent Control Tribunal was not "for the same relief". At this stage, a useful reference can be made to a judgment passed by the Hon'ble Supreme Court in



**Yeswant Deorao Deshmukh v. Walchand Ramchand Kothari**<sup>31</sup>. In the said case, an execution application was filed after 12 years from the date of the final decree and to overcome the bar of limitation, amongst other contentions, the appellant therein sought the exclusion of period occupied in insolvency proceedings under Section 14(2) of the Limitation Act, 1963. In such circumstances, the Hon'ble Supreme Court had observed and held as under: -

**“5. Points 1 to 3 abovementioned are of no avail to the appellant. The decree was not a conditional one in the sense that some extraneous event was to happen on the fulfilment of which alone it could be executed. The payment of court fees on the amount found due was entirely in the power of the decree-holder and there was nothing to prevent him from paying it then and there; it was a decree capable of execution from the very date it was passed. **There could be no exclusion of the time occupied by the insolvency proceedings which clearly was not for the purpose of obtaining the same relief. The relief sought in insolvency is obviously different from the relief sought in the execution application. In the former, an adjudication of the debtor as insolvent is sought as preliminary to the vesting of all his estate and the administration of it by the Official Receiver or the Official Assignee, as the case may be, for the benefit of all the creditors; but in the latter, the money due is sought to be realised for the benefit of the decree-holder alone, by processes like attachment of property and arrest of person. It may be that ultimately in the insolvency proceedings the decree-holder may be able to realise his debt wholly or in part, but this is a mere consequence or result. Not only is the relief of a different nature in the two proceedings but the procedure is also widely divergent.**”**

**(emphasis supplied)**

**24.** In the present case, by way of the appeal, **RC ACRT 13 of 2025**, under Section 38 of the DRCA before learned Rent Control Tribunal, the relief sought was distinct from the relief sought in prayer ‘(b)’ of the instant

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<sup>31</sup> 1950 SCC 766: 1950 SCC OnLine SC 44



petition, *i.e.*, impugned eviction judgment dated 06.07.2020 passed by learned RC.

25. No explanation has been forthcoming from the petitioner as to why the judgment of eviction dated 06.07.2020 was not challenged immediately after the dismissal of review application *vide* order dated 25.09.2025.

26. In these circumstances, the present application is dismissed and disposed of accordingly.

**CM APPL. 20128/2026, CM APPL. 20129/2026**

27. Exemptions allowed, subject to all just exceptions. Applications are disposed of accordingly.

**RC.REV. 101/2026, CM APPL. 20127/2026, & CM APPL. 24388/2026**

28. List this petition with respect to remaining prayers 'c' and 'd' on 24.08.2026 before Roster Bench.

29. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA  
(JUDGE)**

**JULY 06, 2026/bsr/ns**