



2026:DHC:4565



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**IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 26<sup>th</sup> February, 2026**Pronounced on: 21<sup>st</sup> May, 2026*

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RC.REV. 69/2019 &amp; CM APPL. 5613-14/2019

SUBHASH CHAND &amp; ANR

.....Petitioners

Through Mr. Tanmaya Mehta, Mr.  
Anunaya Mehta and Ms.  
Anandita Tayal, Advocates.

versus

RAVI CHAND GARG

.....Respondent

Through: Mr. Jai Sahai Endlaw and Ms.  
Shruti Kapur and Ms. Anju  
Agarwal,, Advocates**CORAM:****HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present petition under Section 25B (8) of the Delhi Rent Control Act, 1958, (for short, 'DRCA') seeks the following prayers: -

“(i) Set aside and quash the order dated 09.08.2018 passed by Smt. Susheel Bala Dagar, CCJ cum ARC, Central District, Tis Hazari Courts, Delhi in Eviction Case No. 851/17;

(ii) Allow the application for leave to defend filed by the Petitioner;

(iii) Pass any other order in the interests of justice, equity and good conscience;”

2. At the very outset, it is pertinent to note that, during the pendency of the proceedings in the present petition, petitioner No.1-Subhash Chand had passed away on 10.05.2020. An application, **CM APPL. 38454/2022**, was



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filed on behalf of the legal heirs of the deceased petitioner No.1 under Order XXII Rule 3 read with Section 151 of the CPC, and they were impleaded in the present petition *vide* order dated 02.09.2022 passed by Worthy Joint Registrar (Judicial). The son of petitioner No.1 was already impleaded in the present petitioner as petitioner No.2, and by way of the aforesaid application, other legal heirs, *i.e.*, Three daughters and wife of deceased petitioner No.1 were impleaded.

### **Brief Background**

3. The present petition arises out of the eviction petition filed on behalf of the respondent against the present petitioners on the ground of *bonafide* requirement for using the tenanted premises as a storage space for his vast library as well as for the additional/old files of his clients. The respondent is an advocate by profession and has been practicing in the District Courts in Delhi as well as this Court for last 24 years. He is stated to be operating his office from his Chamber situated at 194, Civil Wing, Tis Hazari Courts, Delhi. The respondent required the demised premises urgently as his chamber was no longer sufficient for his professional purposes. He was facing severe space constraint in his chamber due to large number of Journals, files and miscellaneous papers. The entire space inside the chamber was stated to be occupied for the purpose of sitting space for client's workstation for juniors and shelves to store books and files. The subject property was to be utilized by the respondent for lining the walls with open metallic shelves for keeping his extra client files with closed cupboards for keeping the books which are in his possession. It was stated in the eviction petition that the respondent was



using a small portion comprising of one room measuring 10”x12” on the ground floor of the premises situated at 7/13 Ansari Road, Darya Ganj, New Delhi, and the said premises belonging to his brother and same was occupied in his capacity of a permissive user. It is further stated that, even otherwise, said premises are part of a residential unit, and are not appropriate to be used as an office. Brother of respondent had requested him to vacate the tenanted premises till the end of November 2017, *i.e.*, 30.11.2017, as same was required by him for his own personal use. Brother of respondent had retired from conducting his business, and wanted to utilise the residential space available to him for his own use. It was further stated that the respondent was required to move/shift all his personal belongings including office furniture (tables and chairs) as well as the books and files which were earlier in his office at Ansari Road back to his chamber. It was further stated by the respondent that he required the tenanted premises *bonafidely* for his personal use as a storage for all the surplus furniture, as well as for maintaining his library and storing his extra files. It was further stated by the respondent in his eviction petition that he does not possess any other reasonable suitable alternate accommodation.

4. Initially, in 1974, petitioner No.1-Subhash Chand (since deceased), and his brother-Dinesh Chand, had executed a rent note dated 15.05.1974, in favour of Mahali Ram Lakshman Das (HUF) as joint tenants in respect of demised premises. Thereafter, said premises were purchased by the present respondent from the aforesaid HUF acting through its *Karta* by way of a registered sale deed dated 04.10.1997. After the purchase, the respondent enhanced the rent of demised premises by 10% in accordance with Section 6A



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of the DRCA. Thereafter, the tenants (petitioner and his brother) defaulted in payment of rent for which a suit No. 340/2002 was instituted by the respondent against them in the Court of learned Civil Judge, Tis Hazari Court, for recovery of Rs.5,120/- as arrears of rent. In written statement filed in the said suit stand taken on behalf of petitioner No.1-Subhash, and his brother-Dinesh was that the latter had relinquished his tenancy in favour of petitioner No.1 by a relinquishment deed dated 02.05.1991. However, respondent herein denied that he was informed of any such relinquishment deed. The said suit was decreed in favour of the respondent *vide* judgment and decree dated 20.03.2008, and respondent was found entitled to a sum of Rs. 5,120/- alongwith interest of 12% per annum alongwith cost of the proceedings. Appeal, RCA 45/2008, preferred against the said judgment by petitioner No.1 and his brother was allowed and the aforesaid judgment passed by learned Civil Judge was set aside *vide* judgment dated 28.07.2010 by learned ADJ, Central, Delhi, on the ground that respondent had not approached the Court with clean hands.

5. In the eviction petition, respondent had also stated that he does not own or possess any other alternative suitable accommodation other than the following properties: -

“1. One Thala Shop No. 673, Pvt No. 43, Ground Floor, which has already sold to Mr. Bharat Bhushan Gulati, vide a registered Sale Deed dated 31.01.2002.

2. One Shop on the first floor of the premises at Municipal No. 674, Pvt. No. 24 situated at Katra Hira Lal, New Delhi- 110006, which was earlier under the tenancy of Sh. Anil Arora and others and which has



been vacated vide the Eviction order dated 07.09.2013 and possession thereof was given to the Petitioner on 22.11.2013. The said shop has been presently let out to Sh. Prasant Gandhi, s/o Sb. Raj K. Gandhi at a rent of Rs. 15,000/- per month. A copy of the rent receipt dated 8.8.2016 issued by the Petitioner to the said tenant is enclosed herewith and marked as **ANNEXURE H.**

3. One Shop on the first floor of property No. 674, Pvt No. 24 situated at Katra Hira Lal, Chandni Chowk, Delhi, which has been let out to one Sardar Jaswinder Singh Saini at a monthly rental of Rs. 12,000/-. A copy of the rent receipts dated 1.3.2017 issued by the Petitioner to the said tenant are enclosed herewith and marked as **ANNEXURE I.**

4. One Shop admeasuring 7 x 14.6 on the wound floor of premises no. 679 bearing private no.5 situated at Katra Hira Lal, Chandni Chowk, Delhi which is in the tenancy of Sh. Gyan Prakash Gupta a monthly rent of Rs. 605/- A copy of the rent receipts dated 25.8.2009 issued by the Petitioner to the said tenant are enclosed herewith and market as **ANNEXURE J.**”

### **Leave to Defend Application Filed by Petitioners**

6. In leave to defend application filed on behalf of the petitioners, it was stated that there is no landlord and tenant relationship between the parties, and the respondent was not recognized as a landlord by the petitioners at any stage. It was further stated that the alleged documents on which reliance was placed by the respondent to show that he was owner of the demised premises were forged and fabricated, and the same did not reflect the respondent as the owner of the property and also created ambiguity with respect to the ownership of the premises. It was the case of the petitioners that the respondent has claimed the ownership of the property on the basis of false and frivolous documents. It was further stated that the site plan placed on record



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by the respondent was incorrect, and the same did not disclose the proper and exact portion of the property which was lying vacant which could have been utilized by the respondent for his alleged *bonafide* requirement. The respondent had also not given any explanation as to how the vacant portion of the property could not be utilized by him. It was pointed out by the petitioners that the legal demand notice dated 11.05.2017 served on behalf of the respondent was addressed in the name of a firm M/s Subhash Chand, wherein one person, namely, Vineet Kumar was shown as a tenant of the subject premises. It was further stated that the said tenant was not impleaded in the present eviction proceedings as a party. Therefore, the present subject petition was bad for misjoinder and non-joinder of necessary parties.

7. During the course of arguments, learned counsel for the petitioners has raised various issues *viz.*, two of the shops bearing No.673, 674 of Katra Hira Lai, Chandni Chowk, New Delhi, were let out by the respondent on 08.08.2016 and 01.03.2017 respectively, and another shop bearing municipal No.681 (private No.43 ½) in same area is lying vacant, and is locked and is in the possession of the respondent herein. Further, certain additional premises were mentioned in the affidavit accompanying the application for leave to defend are also occupied, and in possession of the respondent and there has been no effective denial in this respect on behalf of the respondent. Another issue raised is *qua* premises No.3384, Bazar Sita Ram, Delhi, which is stated to be lying vacant and in occupation of the respondent. The respondent having shifted to premises No.7/13, Ansari Road, Darya Ganj, New Delhi. Though it is denied by the respondent but the learned counsel for the petitioner has filed an electricity bill for the month of November 2016 with respect to the said



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property to demonstrate that for a single month only three units of electricity were consumed, and it rather supports his contention that the respondent has shifted his residence to Ansari Road. This fact was denied by the learned counsel for the respondent saying that he is very much in occupation of the said premises and is residing therein.

### **Submissions on behalf of the Petitioners**

8. Learned counsel for the petitioners has submitted that the respondent had not filed the exact site plan of his chamber situated in Tis Hazari Court premises, from where he was operating. Neither photographs of the chamber nor site plan of the other premises at Ansari Road, which was used by the respondent, were placed on record to lend support to the claim that the respondent has to move from the said premises and additional space is required for keeping books, files and furniture. It is further submitted that merely a bald and vague statement was made by the respondent that office at Ansari Road was used by his brother/Subhash Chand and same were required by his brother for his own individual use. However, no document or proof in support of this submission was placed on record by the respondent. It is further submitted that the demised premises are situated on the ground floor of an extremely busy market/commercial area and the claim of the respondent that the same would be used as a vast library and for keeping files and books as also furniture does not inspire confidence as in the adjacent shops there is cloth trading market and all the persons in neighbouring area are involved in business of cloth trading. It is further submitted that it is practically impossible to use the subject premises which are measuring 9"x7" for the



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alleged purpose based on which eviction has been sought by the respondent. It is further submitted that learned ARC had failed to take into consideration the fact that the respondent had sufficient alternate suitable accommodation available with him other than the subject premises which could have been used by him. It is pointed out that the respondent had available with him a property bearing no. 3384, Bazar Sita Ram, Delhi, which was lying vacant and was not used in any manner. With respect to said shop, respondent had claimed that the same has been used as residence, however, it is contended on behalf of the petitioners that electricity bill of the said property shows that the consumption of electricity in the said property is nearly 3 units per month. Reliance has been placed on the electricity bills of the said property placed on record by learned counsel for the petitioners before learned ARC as well as this Court.

**9.** Learned counsel for the petitioners has submitted that learned ARC had failed to appreciate the fact that the respondent had sufficient additional accommodation available with him, besides the subject premises, which could have been used by him.

**10.** It is further submitted that in pursuance of directions given by learned Predecessor Bench *vide* order dated 06.02.2019, respondent herein had filed affidavit showing electricity consumption for the period July 2016 to April 2017 with respect to his property situated at Bazar Sita Ram, Delhi, wherein, it has been clearly disclosed that during the subject period, the electricity units consumed were regularly negligible. It is further submitted that the same could only be possible only if the said property was lying vacant and was not



being used, and any explanation given by respondent in this regard is entirely unbelievable and will be beyond imagination.

**11.** It is further submitted that learned ARC failed to consider that the respondent had concealed other suitable accommodations/shops available with him. It is pointed out that the petitioners in their leave to defend application had categorically submitted that the respondent had not disclosed the following list of properties available at his disposal: -

- a) Premises no. 31 & 32, situated at second floor in property bearing no. 676 to 682, Nai Sarak, Chandni Chowk, Delhi;
- b) Premises no. 29 & 30, in property bearing no. 683, Nai Sarak, Chandni Chowk, Delhi;
- c) Property no. 4303, Gali Bhairon Wali, Chandni Chowk, Delhi;
- d) Property no. 7/13, Gali Malkhan Lal, Ansari Road, Darya Ganj, New Delhi;
- e) Property 4764-70, Laxmi Bazar, Chandni Chowk, Delhi;

**12.** It is further pointed out that the respondent did not address nor denied the aforesaid averments made by the petitioners, and learned ARC had erred in dismissing the leave to defend application by the petitioners.

**13.** It is further submitted that learned ARC had also failed to appreciate that shop No.681, private No.43 ½ as given in the sale deed filed by the respondent was not even mentioned in the eviction petition, and when said property was pointed out by the petitioners, the stand taken by the respondent



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was that the said property was under the tenancy and in possession of Shyama Devi Rastogi, Puran Prasad, and Prabhu Dayal. However, no document in support of said stand to show the alleged tenancy was placed on record by respondent. It is further submitted that the alleged tenants of the said shop had expired, and the same is not occupied. Further, utility bills regarding the said shop were also not disclosed. There is no shutter or hoarding on the said shop which itself shows that it was lying vacant for a considerable period of time. It is the case of the petitioners that the said shop is a corner shop and the respondent intended to get the subject premises vacated, and after reconstructing both the shops, he wants to let out the same on higher rent.

**14.** It is further submitted that learned ARC has further failed to appreciate that the respondent had only given vague excuses for not using the properties No.678, 673, 674, 679, and 681, which were under possession of other tenants or sold by him. Learned counsel for the petitioner has by way of a chart showing availability of sufficient alternative accommodation with the respondent has pointed out the stand taken by respondent to the aforesaid properties, which has been reproduced thus: -

S/no.	Property Details	Context
1.	<b>3384, Bazaar Sita Ram</b>	Respondent has claimed that he is staying in this property. However, alongwith his reply to the Application seeking leave to defend, the Respondent filed an electricity bill which shows consumption of <u>only 3 units in the entire month of November 2016 (Pg. 344 Vol. II).</u>  Given the said fact, by order dated 06.02.2019, the Respondent was directed to file electricity



		<p>bills for the period July 2016 to April 2017. The bills so filed show consumption of 2, 0, 57, 16, 26, 3, 4 and 3 units of electricity during the months July 2016 to Feb 17 (Pg. 539 Vol. II).</p> <p>The negligible consumption of electricity every months, clearly indicates that the property is lying vacant, thereby raising triable issue regarding the respondent's plea that he is staying in this property.</p>
2.	Several properties mentioned at paragraph 48 of the affidavit filed in support of the Application seeking Leave to Defend	<p>The petitioner tenant has listed out specific properties which, according to him, belong to the respondent, at paragraph 48 of the Affidavit in support of the Application seeking Leave to Defend (Pg. 229 Vol. I). There is no specific denial by the Respondent-Landlord to this averment in the corresponding paragraph of the reply, which has been filed by him (Pg. 390 Vol. II).</p> <p>The absence of specific denial, ought to be construed as an admission of the availability of properties mentioned therein.</p> <p>It would be important to note that in the course of oral arguments, the respondent referred to paragraph 51 of the Reply to the Leave to Defend;</p> <p>however, the properties mentioned at paragraph 51 are completely different from the properties mentioned at paragraph 48, which have not been denied.</p>
3.	Three properties at paragraph B (2-4) of the eviction petition, claimed to be currently let-out and under occupation of other tenants	<p><b>Common Submissions:</b></p> <p>1. The alleged rent receipts, filed by the Respondent (Pgs. 152-154 Vol. I) to support his claim that the shops mentioned at paras B(2) to (4) are leased out, are self-serving and fabricated documents and cannot be relied upon on the face of it:</p> <ul style="list-style-type: none"><li>• There is no signature of the tenant on any</li></ul>



		<p>of the receipts. The space for signature of tenants at the bottom of the page is blank. The receipts are signed only by the Landlord.</p> <ul style="list-style-type: none"><li>• There is no supporting lease deed filed by the Respondent filed in relation to any of the properties. It is only the oral submission of the Respondent that the shops are on lease.</li><li>• The receipt numbers are mismatched and the time period of the tenancy is mentioned in the receipts also does not appear congruous.<ul style="list-style-type: none"><li>- For example, the receipt dated 8th August 2016 is bearing serial number 23 whereas the receipt for 25th August 2009 is bearing serial number 21.</li><li>- Further, receipt No. 23 dated 8th August 2016 is for the period 8th August to 8th September 2016, whereas rent receipt no. 24, is for the period 1st March 2017 till 31st March 2017. In other words, for the period from 8th September 2016 till 28th February 2017, for neither of the two properties at private number 673 of 674, is there a single rent receipt.</li><li>- Whereas the receipts at serial nos. 23 (Aug- Sep 2016) and 24 (Feb-Mar, 2017) are for a period of 1 month each, the receipt at serial no. 21, which even though bears an earlier serial no. compared to receipt nos. 23 and 24, is of a date subsequent i.e. Aug 2009, and is together for a period of 36 months for the period Aug 2006 to Aug 2009.</li></ul></li><li>• These glaring inconstances clearly raise triable issues.</li></ul> <p>2. The Petitioner had filed various photographs of the shops No. 673, 674, 679 and 681 alongwith the Application seeking leave to defend (Pgs. 297 – 308 Vol. I) showing that the</p>
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	<p>shops in question were perpetually closed – which disprove the Respondent’s claim that shops No. B(1-3) are on lease.</p> <p>In fact, in addition to photographs filed with the Leave to Defend Application, the Petitioner filed more photographs with the present petition alongwith an application for additional documents (Pgs. 512 Vol. II) which show continued status of shops as closed on various dates and at various times (business hours).</p> <p>3. Properties at paragraph B (2) – (3) of the eviction petition are all determinable tenancies with rents upwards of Rs. 3,500 per month for which no rent agreement has been placed on record. Therefore, it can be assumed, at least at this stage, that these are month-to-month tenancies and can be determined by 15 days' notice under Section 108 of the Transfer of Property Act. It is not open to the landlord to have created determinable tenancies, and then to not determine them, while at the same time seek eviction of a protected tenant.</p> <p>4. As far as the property at Serial no. 4 of Para B of the Eviction petition is concerned, there is a mismatch between the tenant mentioned at Para B (Gyan Gupta) and the tenant mentioned in the Sale Deed of 1998 under which the petitioner purchased this property (Trilok Chand). It is completely unbelievable that after purchasing a property in 1998 with a tenant Trilok Chand, the petitioner after getting the property vacated from him, would induct a Gyan Gupta as a new <i>statutory tenant with rent below Rs. 3500</i>. When read with the suspicious nature of the rent receipt, detailed above, it is clear that the Respondents claim raises a triable issue.</p> <p>Further, the submission of the respondent that the judgment of <i>Satyawati</i> of the Supreme Court came in 2008, and that prior there too, commercial tenancies could have been created below Rs. 3,500 without entailing statutory</p>
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		protection, itself raises a triable issue, in as much as the landlord in the eviction petition has not given the date on which he has created this new tenancy with Gyan Gupta, nor has any agreement been placed on record.
4.	Properties mentioned at paragraph 2 and 4 (unnumbered) of the 1998 Sale Deed, Schedule A	The landlord, under the 1998 sale deed, purchased several properties. There is no disclosure in the eviction petition as to what transpired with respect to properties at paragraphs 2 and 4 in Schedule A of the Sale Deed (Pg. 106 Vol. I) i.e. Shop No. 43½ and Shop No. 49 in as much as they were also within the ownership of the landlord, even though other properties mentioned in the Schedule have been disclosed. It would be important to note that since the landlord is seeking the subject property for the purpose of storage only, the suitability of the accommodation becomes irrelevant in as much as any property which has space would be suitable for storage. In this background this also raises a triable issue.

15. It is further the case of the petitioners that learned ARC did not take into consideration the fact that the various rent receipts placed on record by the respondent in the eviction petition were forged and fabricated, and there was a serious doubt about the authenticity of the said receipts/documents. It is also the case of the petitioners that if the rent receipts were genuine, then they would not bear serial numbers in continuation over a period of 8 years. This, as per petitioners, shows that the said receipts are fabricated and have been placed on record as an afterthought solely to lend support to his case by the respondent. The said receipts, in fact, have not been signed by the purported tenants to whom the same were stated to have been issued, and therefore, the same could not have been considered as proof of the respondent's *bonafide*



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without the petitioners being provided a reasonable opportunity to negate the same.

16. It is further the case of the petitioners that the respondent had intentionally not filed complete site plan of the building in which the demised premises are situated as the correct site plan would have shown the additional vacant accommodation available with the respondent in relation to which no explanation for non-utilization was given by the respondent. It is also pointed out that the petitioners had placed on record correct site plan of the demised premises showing the actual size of the property as well as the other accommodations in possession and ownership of the respondent.

17. It is, therefore, prayed that the present petition may be allowed and the petitioners may be granted leave to defend the eviction petition filed by the respondent.

18. During the pendency of the present petition an application, **CM APPL. 5614/2019**, was filed on behalf of the petitioners seeking leave to place on record additional documents. It was the case of the petitioners that there are other properties owned by the respondent which were claimed to be in possession of other tenants and their actual status was not entirely disclosed by the respondent, and thus, the said properties could be utilised by the respondent to satisfy his *bonafide* requirement. In this regard, it was stated that shop No. 681, Private No. 43 ½ measuring 11x7 feet is no longer under the tenancy inasmuch as tenants of the said shop have expired and the shop is not occupied and the firm being run from the said shop is no longer in



existence. The electricity connection of the said also stand disconnected and the said property has been lying vacant since 15 years and there was no sign board on the said property/shop. Similarly, with respect to property No. 679, the case of the petitioners is that the same is not under tenancy as has been claimed by the respondent and the same has remained closed for a period of more than 10 years. With respect to aforesaid properties and in support of the averments made in the application, petitioners sought to place on record fresh photographs to demonstrate that the aforesaid shops in question were shut and in fact the condition of the shutter and locks clearly reveal that the said properties have been lying vacant and have not been in use for a considerable period of time. The relevant photographs in support of the case of the petitioners were annexed alongwith the subject application. Reliance has been placed by learned counsel for the petitioner on the judgment passed by learned Coordinate Bench of this Court in **Kuldeep Singh v. Sanjay Aggarwal**<sup>1</sup>, to contend that the subsequent events can be considered by this Court in revisional jurisdiction. It is further contended that in similar circumstances in the aforesaid case, learned Coordinate Bench accepted the plea of the petitioner therein with respect to the subsequent events after the passing of the impugned order therein.

### **Submissions on behalf of the Respondent/Landlord**

19. Learned counsel for the respondent, while refuting the submissions made on behalf of the petitioners, has submitted that the impugned order has been passed by learned ARC after considering the leave to defend application

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<sup>1</sup> 2018: DHC: 2429



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filed on behalf of the petitioners and the averments made therein. It is submitted that the scope of jurisdiction under Section 25B(8) of the DRCA is merely supervisory. This Court cannot substitute or supplant its views in place of findings given by learned ARC. The leave to defend application filed on behalf of the petitioners was dismissed by learned ARC as they had failed to raise any triable issues. Reliance has been placed on the judgment passed by the Hon'ble Supreme Court in **Abid-Ul-Islam v. Inder Sain Dua**<sup>2</sup>, in support of this contention.

20. Regarding the landlord-tenant relationship, it is submitted that the petitioners were admittedly tenants under the previous owners of the property and any further attornment by the petitioners-tenants to the subsequent landlord is not required. It is further submitted that the respondent being a landlord merely has to establish that he has a better title than the tenants-petitioners over the demised premises for succeeding in the subject eviction petition, and he has duly shown the same. It is submitted that in view of earlier litigation in Suit No.340/2002, and the application under Section 27 of the DRCA preferred by the petitioners for deposit of rent, the relationship of landlord and tenant stood established between the parties.

21. With respect to the *bonafide* requirement of the respondent, it is submitted that the demised premises are required by the respondent for his personal use as he is a practising advocate and was facing space constraints due to large number of files, journals, etc., as also for storage space for his library and additional files of his clients. It is further submitted that the

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<sup>2</sup> (2022) 6 SCC 30



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additional space situated at Ansari Road was used by the respondent as a permissive user/licensee by/from his brother-Subhash Chand, who had asked him to vacate the said space by 30.11.2017, as the said premises were required by the brother of the respondent for his own purposes/requirement. Further, said premises at Ansari Road formed part of respondent's brother's residential unit and was therefore, not suitable for office storage utilisation of the respondent. It is further submitted that learned ARC after considering the aforesaid circumstances had passed the impugned eviction order. The *bonafide* requirement of the respondent was found to be genuine. It is further submitted that burden to refute the presumption lies on the petitioners-tenants and mere assertions are not sufficient to rebut the strong presumption existing in favour of the respondent.

**22.** With respect to the stand/chart provided by learned counsel for the petitioner regarding availability of sufficient alternative accommodation with the respondent following averments have been made on behalf of the respondent by way of a chart which is reproduced as under: -

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Sno.	Premises	Respondent-Landlord	Revisionist-Tenant
1.	3384, Gali Tabela, Bala Prashad Bazaar Sita Ram, Delhi-11006	- The Respondent-landlord is residing in the said premises - Landlord is a tenant in the said premises-reliance placed on Electricity Bill in the name of the Respondent's father - It is submitted that the Respondent is unmarried and is accordingly residing as a bachelor, without any dependents. Since the Respondent is a practicing advocate, he spends long days	- Property is lying vacant and the Petitioner is not using it in any manner whatsoever, said property is alternative and suitable accommodation to the Petitioner as the Petitioner was previously residing in the said property and about more than one decade had shifted in the property situated at Ansari Road, Darya Ganj, New Delhi and from the said property the petitioner is also running his professional activities. Needless to



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		<p>working from his chamber in District Court, Tis Hazari and only returns late in the evening to spend the night.</p> <p>- Living a simple life, the Respondent's accommodation is bereft of any large appliances such as an air conditioner, washing machine and kitchen appliances. The Respondent's only electricity consumption is from the light and fan installed in the premises.</p> <p>- Hence his electricity consumption from the said premises varies from month to month.</p>	<p>say that the property situated at Darya Ganj, New Delhi, is situated in a most posh locality as compared to the property situated at Bazar Sita Ram, Delhi-110006, as well as the properties situated at Chandni Chowk, Delhi-6.</p> <p>...Petitioner is an unmarried person having no family members and is residing alone in one room in the said house</p>
2.	One Thala Shop No. 673, Pvt. No. 43, Ground Floor	- Sold to Mr. Bharat Bhushan Gulati <i>vide</i> registered Sale Deed dated 31.01.2002	- Undated photograph filed showing premises is shut
3.	Shop on the First Floor, Property No. 673, Pvt No. 23, Katra Hira Lal, Chandni Chowk, Delhi	<p>- Previously under the tenancy of Sh. Anil Arora &amp; Ors.- vacated <i>vide</i> Eviction Order dt 07.09.2013 and possession given to Petitioner on 22.11.2013</p> <p>- Has been let out to Sh. Prasant Gandhi at rent of Rs. 15,000/- per month</p> <p>- Response to photograph-shop is tenanted and under occupation</p>	<p>Rent receipt filed as Annexure H is false, baseless, concocted, fabricated and manipulated rent receipt</p> <p>- Undated Photograph filed showing premises is shut</p>
4.	Shop on the First Floor, Property No. 674, Pvt. No. 24, Katra Hira Lal, Chandni Chowk, Delhi	<p>The property has been let out to Sardar Jaswinder Singh at a monthly rent of Rs. 12,000/-</p> <p>Rent receipt dt. 01.03.2017-Annexure I</p> <p>- Response to photograph-shop is tenanted and under occupation</p>	<p>Rent receipt filed as Annexure I is false, baseless, concocted, fabricated and manipulated rent receipt</p> <p>-Undated photograph filed showing premises is shut.</p>
5.	Shop admeasuring 7x14.6 on the GF	- Property has been let out to Gyan Prakash Gupta at a	Rent receipt filed as Annexure J is false, baseless, concocted,



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	of Premises No. 679, bearing Pvt. No. 5, Katra Hira Lal, Chandni Chowk, Delhi	monthly rent of Rs. 605/- -Response to photograph-shop is tenanted under the occupation of Mr. Gyan Prakash Gupta	fabricated and manipulated rent receipt - Undated photograph filed showing premises is shut
6.	Premises no. 31 and 32, Second floor in Property bearing No. 676 to 682, Nai Sarak, Chandni Chowk, Delhi-110006	- Landlord denied claims and allegation of concealment. Eviction petition was filed with complete sets of documents disclosing all material facts	- Property concealed by landlord
7.	Premises no. 29 and 30, in property bearing No. 683, Nai Sarak, Chandni Chowk, Delhi	- Landlord denied claims and allegation of concealment. Eviction petition was filed with complete sets of documents disclosing all material facts	- Property concealed by landlord
8.	Property No. 4304, Gali Bahiron Wali, Chandni Chowk, Delhi	- Landlord denied claims and allegation of concealment. Eviction petition was filed with complete sets of documents disclosing all material facts	- Property concealed by landlord
9.	Property No. 7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi	- Property is owned by the brother of the Respondent and is unavailable to the Respondent	Landlord is residing in the said premises and runs his office from the same premises on the ground floor
10.	Property No. 4764-70, Laxmi Bazar, Chandni Chowk, Delhi	- Landlord denied claims and allegation of concealment. Eviction petition was filed with complete sets of documents disclosing all material facts	- Property concealed by landlord
11.	Property bearing No. 681, Pvt. No. 43 ½ situated at Katra Hira Lal, New Delhi-110006	-Response to photograph-shop is tenanted under the occupation of Ms. Shyama Devi Rastogi, Mr. Puran Rastogi and Mr. Prabhu Rastogi. - Premises finds mention in Schedule A of the Sale Deed dated 04.10.1997 executed in	-Undated photograph filed showing premises is shut”



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		favour of the landlord providing details of tenancy	
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23. It is further submitted that learned ARC had carefully considered the averments made by the respondent *qua* alternative suitable accommodation raised and the petitioner and had dismissed the same by observing that petitioners had failed to disclose any additional accommodation other than the demised premises and suitable to satisfy the *bonafide* requirement of the respondent. It is further submitted that the petitioners have failed to make out a case in his favour by disclosing any facts which would disentitle the respondent from getting an eviction order in his favour.

24. With respect to the contention of learned counsel for the petitioners with respect to consideration of subsequent events in the present jurisdiction, it is submitted on behalf of the respondent that the same cannot be done as in the present jurisdiction the contours of the power under Section 25B (8) of the DRCA is limited to the evaluation as to whether the impugned order was in accordance with law or not and, the same cannot be on the basis of material which was not before the Rent Controller when the impugned order was passed. It is further submitted that this Court would confine itself only to the material which was before the Rent Controller at the time of passing of the impugned order. Reliance has been placed by learned counsel for the respondent on a judgment passed by learned Coordinate Bench of this Court in **Gopal Krishan v. Vijay Kumar Aggarwal & Anr. Alongwith other**



**connected petitions**<sup>3</sup>, in support of this contention. Learned counsel for the respondent has handed up in Court during the course of hearing rent receipts issued by the latter in respect of the aforesaid properties of the year 2016 and 2017 to show that the aforesaid properties were occupied by the respected tenants at the time when the subject eviction petition was filed before learned ARC. It is pointed out that the subject eviction petition was filed by the respondent on 07.11.2017.

**25.** In these circumstances, it is prayed that the impugned order does not suffer from any illegality or infirmity, and the same need no interference, and the present petition be dismissed.

**26.** Reliance has also been placed on the following judgments along with the propositions by learned counsel for the respondent in support of latter's case: -

**a. Baldev Singh Bajwa v Monish Saini**<sup>4</sup>;

Proposition: The need as averred by the landlord ought to be presumed as genuine and bona fide. The burden to refute the presumption lies squarely on the tenant and the mere assertions by the tenant are insufficient to rebut the strong presumption in the landlord's favour

**b. Abid-Ul-Islam v. Inder Sain Dua**<sup>5</sup>;

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<sup>3</sup> 2024: DHC: 1977

<sup>4</sup> (2005) 12 SCC 778

<sup>5</sup> (2022) 6 SCC 30



Proposition: In a petition filed under section 14(1)(e) of the DRCA, the Hon'ble Court is only concerned with the requirement of a bona fide purpose, and the contention regarding the availability of alternative accommodation can at best be described only as an 'incidental one'.

**c. Kanhaiya Lal Arya v. Mohd. Ehshan<sup>6</sup>,**

Proposition: The landlord is the best judge to decide which of his property should be vacated for satisfying his particular need. The tenant has no role in dictating as to which premises the landlord should get vacated for his need alleged in the suit for eviction

**d. Prativa Devi (Smt) v. TV Krishnan<sup>7</sup>,**

Proposition: The landlord is the best judge of his requirements for a premises.

**e. Sarla Ahuja vs. United India Insurance Company<sup>8</sup>,**

Proposition: While deciding the question of bona fide requirement of the landlord, it is unnecessary to make an endeavour as to how else the landlord could have adjusted himself

**f. Jai Kishan v Gauri Shankar<sup>9</sup>,**

**g. Shri Jugesh Kumar v Smt. Omwati Through LRs.<sup>10</sup>,**

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<sup>6</sup> 2025 SCC OnLine SC 432

<sup>7</sup> (1996) 5 SCC 353

<sup>8</sup> AIR 1999 SC 100

<sup>9</sup> 2025:DHC:8200



Proposition: Mere availability of an alternative accommodation is not a criteria for denying relief for a suitable accommodation; Revision petition under proviso to Section 25B(8) of DRCA has a limited scope and can only consider the case based on materials available before the Ld. ARC at the time of passing the order

### **Analysis and Findings**

27. Heard learned counsels for the parties and perused the records.

28. Learned ARC *vide* the impugned order dated 09.08.2018, with respect to *bonafide* requirement and availability of alternative suitable accommodation, while dismissing the application seeking leave to defend filed on behalf of the petitioners had observed as under: -

**“Bonafide requirement and availability of alternative suitable accommodation :-**

22. It is submitted by the petitioner that the tenanted premises is bonafide required by him for his own use. As per the case of the petitioner, the petitioner is an Advocate by profession, having a practice before the District Courts and High Court of Delhi for the last 24 years. The petitioner is presently operating his office from his chamber at 194, Civil Wing, Tis Hazari Courts, Delhi. The petitioner is in urgent need of the tenanted premises as his chamber aforementioned is no longer sufficient for his professional purposes. There is a severe space constraint in his chamber due to the large number of law treatises and journals, files and miscellaneous papers. Presently, the petitioner's chamber comprises his own worktable. seating for clients, another work station for juniors/colleagues of the petitioner, another small table for clerk of the petitioner. Apart from this, the petitioner's chamber also has open shelves

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<sup>10</sup> 2025:DHC:8128



to store the books and files and which has now reached its peak. The petitioner intends to use the tenanted premises as a storage space for his vast library as well as for the additional/old files of his clients. This will clear up some space in the petitioner's existing chamber. The petitioner was using a small portion comprising one room admeasuring 10" x 12" on the ground floor of the premises situated at 7/13, Ansari Road, Darya Ganj, New Delhi-1 10002 as his office and to store his files/books. However, the said premises belongs to the brother of the petitioner, i.e. Sh. Subhash Chand. Now, Sh. Subhash Chand, i.e. the brother of the petitioner has requested the petitioner to vacate the one room mentioned above as he requires it for his own personal use. Therefore, the petitioner will be required to move/shift all his personal belongings including office furniture (tables and chairs) as well as the books and files which were earlier in his office at Ansari Road back to his chamber. Further, it is submitted by the petitioner that one Thala Shop No. 673, Pvt. No. 43, Ground Floor, which was owned by the petitioner has already sold to Mr. Bharat Bhushan Gulati, vide a registered Sale Deed dated 31.01.2002. It is further submitted that the petitioner is also owner of other shops which are under tenancy of different tenants, i.e. shop on the first floor of the premises at Municipal No. 674, Pvt. No. 24 situated at Katra Hira Lal, New Delhi-110006. which is under the tenancy of Sh. Prasant Gandhi S/o Sh. Raj K. Gandhi, shop on the first floor of property No. 674, Pvt. No. 24, situated at Katra Hira Lal, Chandni Chowk, Delhi, has been let out to one Sardar Jaswinder Singh Saini and shop admeasuring 7 x 14.6 on the ground floor of premises no. 679 bearing Pvt. No. 5 situated at Katra Hira Lal, Chandni Chowk, Delhi, is in the tenancy of Sh. Gyan Prakash Gupta.

23. Per contra, it is averred by the respondents that the petitioner has not disclosed as to what are the change circumstances for filing the present petition and as to why it has been filed at this stage inspite of the fact that the petitioner has become the alleged owner of the property long back according to him. **Further, it is submitted by the respondents that the petitioner has concealed various properties which are under the occupation and possession of the petitioner, those are premises No. 31 & 32. situated at second floor in property bearing No. 676 to 682, Nai Sarak, Chandni Chowk, Delhi-110006; Premises No. 29 & 30, in property bearing No. 683, Nai Sarak, Chandni Chowk, Delhi-110006; Property No. 304. Gali Bahiron Wali, Chandni Chowk, Delhi; Property No. 7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi; Property No. 4764- 70. Laxmi Bazar, Chandni**



**Chowk. Delhi. Further, it is submitted by the respondents that the petitioner has wrongly stated that he is residing in property bearing No. 3384, Bazar Sita Ram, Delhi.** It is submitted that the petitioner is residing in property bearing No. 7/13, Gali Makhan LaI, Ansari Road, Darya Ganj, New Delhi, and is also having a huge office in the suit property situated at ground floor. The petitioner is an unmarried person having no family members and is residing alone in one room in the said house. The property bearing No. 3384, situated at Bazar Sita Ram, Delhi. is lying vacant and the petitioner is not using the same in any manner whatsoever. The respondents have also challenged the site plan filed by the petitioner stating that the site plan filed by the petitioner is totally incorrect and the accommodation which is available to the petitioner has been concealed by the petitioner. The petitioner has only filed the site plan of the suit premises and has concealed the material facts of those portions of the property which are already available to the petitioner. The other portion which is also lying vacant has not been disclosed by the petitioner in the entire pleadings and there is also no explanation how and why the petitioner cannot use the other portions which are lying vacant. It is submitted that the requirement of premises in question is nothing else but a lust of the petitioner to keep and acquire more and more properties. The respondents have also filed their own site plan.”

24. Perusal of the record shows that by virtue of the Sale Deed placed on record by the petitioner, the petitioner has purchased Portion of Katra Hira LaI, Nai Sarak (Ward V) bearing Municipal No. 679, 681, 678, 676, 673, 674 and Pvt. No. 5, 431/2, 50, 49, 23 & 24, detailed in Annexure 'A'. The petitioner has clearly stated in his eviction petition that one thala shop no. 673, Pvt. No. 43, Ground Floor, has already been sold to Mr. Bharat Bhushan Gulati vide registered Sale deed Dated 31.01.2002, shop on the first floor of the premises at Municipal No. 674, Pvt. No. 24 situated at Katra Hira LaI, New Delhi- 110006, which is under the tenancy of Sh. Prasant Gandhi S/o Sh. Raj K. Gandhi, shop on the first floor of property No. 674, Pvt. No. 24, situated at Katra Hira Lal, Chandni C'howk, Delhi, has been let out to one Sardar Jaswinder Singh Saini and shop admeasuring 7 x 14.6 on the ground floor of premises no. 679 bearing Pvt. No. 5 situated at Katra Hira LaI, Chandni Chowk, Delhi, is in the tenancy of Sh. Gyan Prakash Gupta. As far as premises bearing Municipal no. 676 is concerned, the same is a common staircase, as has been clearly mentioned in Annexure'A' of the Sale Deed placed on record by the petitioner. On the other hand, the respondents



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have challenged the authenticity of the rent receipts placed on record by the petitioner, however, the respondents have failed to file even a single document to show that the said shops are in possession of the petitioner which can be used by him for his bonafide requirement. Even in the site plan filed by the respondents, the respondents have nowhere demarcated as to which shop is in their tenancy and which shops are allegedly in possession and occupation of the petitioner, which can be used by the petitioner for his bonafide requirement.

25. As far as property no. 7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi is concerned, it is himself stated by the petitioner in his eviction petition that the said premises belongs to the brother of the petitioner, namely, Sh. Subhash Chand, of which the petitioner was using a small portion comprising one room admeasuring 10" x 12" on the ground floor, however, the said brother of the petitioner has requested the petitioner to vacate the same as now he requires it for his own personal use. On the other hand, the respondents have failed to place on record any documentary proof to show that the petitioner is residing in property bearing No. 7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi, and is also having a huge office in the suit property situated at ground floor. Thus, in absence of any documentary proof, the said contention of the respondent cannot be relied upon.

26. Further, as per the respondents the petitioner has wrongly stated that he is residing in property bearing No. 3384, Bazar Sita Ram, Delhi. It is submitted that the petitioner is residing in property bearing No. 7/13, Gali Mukhan Lal, Ansari Road, Darya Ganj, New Delhi, and property bearing No. 3384, situated at Bazar Sita Ram, Delhi, is lying vacant and the petitioner is not using the same in any manner whatsoever. On the other hand, the petitioner has denied the same stating that he is residing in property bearing no. 3384, Bazar Sita Ram, Delhi, comprising one room, kitchen, bathroom and balcony situated on the first floor. Further, it is submitted by the petitioner that property no. 7/13, Gali Makhan Lal, Ansuri Road, Darya Ganj, New Delhi, is under the ownership of his brother, namely, Subhash Chand.

27. Perusal of the record shows that in the memo of parties, affidavit alongwith the petition, Sale Deed with respect to the suit property in favour of the petitioner, etc., the petitioner has shown his address to be that of property bearing no. 3384, situated at Bazar Sita Ram, Delhi. Even in the DR petition filed by the respondents against the petitioner for



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deposit of rent qua the tenanted premises, the respondents have mentioned the address of the petitioner herein to be that of property no. 3384, situated at Bazar Sita Ram, Delhi in their memo of parties. That being the case, it does not lie in the mouth of the respondents to say that the petitioner is residing in property no. 7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi or that property no. 3384 is lying vacant, which can be used by the petitioner for his bonafide requirement. Even otherwise, it is a settled law that the owner/landlord is the best judge of his own requirement and the tenant cannot dictate terms upon the owner/landlord as to which premises he should use for his bonafide use. Reliance in this regard is placed upon the case-law titled as ***Ragavendra Kumar v. Firm Prem Machinery***, AIR 2000 SC 534, wherein the Supreme Court held that it is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter. Further, it cannot be disputed that since the tenanted premises in question is situated at the ground floor, therefore, it would be more suitable for the petitioner, who is Advocate by profession and is aged 52 years, to be used as a storage area for all the surplus furniture as well as for maintaining his library and storing his extra files. It is common knowledge that carrying heavy additional files/books/journals/furniture to upper floors would be very uncomfortable when the same can be stored on the ground floor in the tenanted premises. In ***Rajesh Jain v. Quazi Sammin Ahmad 2015 (2) RLR 438*** it has been laid down that since eviction was sought for commercial purposes, it was rightly held that ground floor of the property would be more suitable. Moreover, in ***Sarla Ahuja v. United India Insurance Company Ltd.*** (1998) 8 SCC 119 it has been held that Rent Controller shall not proceed on the presumption that the requirement of the landlord is not bona fide and that when the landlord shows Prima facie case, a presumption that the requirement is bona fide is to be drawn. Thus, the bonafide requirement of petitioner qua the tenanted premises as well as non-availability of any alternative suitable accommodation with the petitioner to meet out his bonafide needs stands duly proved.”

(emphasis supplied)



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**29.** In the eviction petition filed by the respondent, it was averred that he does not own or possess any other alternate suitable accommodation other than the following properties: -

“1. One Thala Shop No. 673, Pvt No. 43, Ground Floor, which has already sold to Mr. Bharat Bhushan Gulati, vide a registered Sale Deed dated 31.01.2002.

2. One Shop on the first floor of the premises at Municipal No. 674, Pvt. No. 24 situated at Katra Hira Lal, New Delhi- 110006, which was earlier under the tenancy of Sh. Anil Arora and others and which has been vacated vide the Eviction order dated 07.09.2013 and possession thereof was given to the Petitioner on 22.11.2013. The said shop has been presently let out to Sh. Prasant Gandhi, s/o Sb. Raj K. Gandhi at a rent of Rs. 15,000/- per month. A copy of the rent receipt dated 8.8.2016 issued by the Petitioner to the said tenant is enclosed herewith and marked as ANNEXURE H.

3. One Shop on the first floor of property No. 674, Pvt No. 24 situated at Katra Hira Lal, Chandni Chowk, Delhi, which has been let out to one Sardar Jaswinder Singh Saini at a monthly rental of Rs. 12,000/-. A copy of the rent receipts dated 1.3.2017 issued by the Petitioner to the said tenant are enclosed herewith and marked as ANNEXURE I.

4. One Shop admeasuring 7 x 14.6 on the wound floor of premises no. 679 bearing private no.5 situated at Katra Hira Lal, Chandni Chowk, Delhi which is in the tenancy of Sh. Gyan Prakash Gupta a monthly rent of Rs. 605/- A copy of the rent receipts dated 25.8.2009 issued by the Petitioner to the said tenant are enclosed herewith and market as ANNEXURE J.”

**30.** In application seeking leave to defend filed on behalf of the petitioners, it was alleged that the respondent had concealed various properties which are under his occupation and possession and following



averments were made to raise triable issue in respect of the availability of other alternate suitable accommodation available with the respondent: -

“48. That the petitioner is always in the habit of concealing the facts for one or the other reasons and is always in the habit of playing hide and seek game either with the respondent or with the Hon’ble Court. Needless to say that the petitioner has initially filed a suit for recovery of arrears of rent pertaining to the suit premises in the Court of Shri Vishal Singh, the then Civil Judge, Delhi, which was decided vide orders dated 20.03.2008. Even in the said suit, the petitioner has concealed various facts from the Hon’ble Court, therefore, the respondent has filed a R.C.A. of the impugned judgment which was assigned to the Court of Shri S.S, Rathi, the then Additional District Judge, Delhi, and the Hon’ble Court after perusing the Trial Court record and hearing the arguments as well as after perusal of the documents filed by the parties of the said suit, found that the petitioner herein had been concealing various material facts from the Trial Court with a hidden purpose and the same was evident with hidden purpose was to seek a decree on false facts. Similarly the petitioner has conceal various properties such as **That as That the petitioner has concealed various properties which are under the occupation and possession of the petitioner, those are Premises No.31 & 32, situated at second floor in property bearing No.676 to 682, Nai Sarak, Chandni Chowk, Delhi-110006; Premises NO.29 & 30, in property bearing No.683, Nai Sarak, Chandni Chowk, Delhi-110006; Property No.4304, Gali Bahiron Wali, Chandni Chowk, Delhi; Property NO.7/13, Gali Makhan Lal, Ansari Road, Darya Ganj, New Delhi Property No.4764-70, Laxmi Bazar, Chandni Chowk, Delhi.) .....**”

(emphasis supplied)

31. In reply filed on behalf of the respondent to the application seeking leave to defend filed on behalf of the petitioners, following stand was taken on behalf of the respondent: -

“48. The averments made in Paragraph 48 of the Grounds are incorrect and denied.. It is wrong to suggest that the Petitioner is in a



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habit of concealing facts as alleged. The Petitioner has himself disclosed about the findings returned by the Courts in the earlier litigation between the parties. Without going into the merits of the matter, it is submitted that the Petitioner has along with present eviction petition filed complete sets of documents and disclosed all material facts as would be required to adjudicate the present petition. No concealment has been made in the present matter.”

**32.** Perusal of the aforesaid averments would show that petitioners in their leave to defend application had disclosed certain properties which were under the occupation and possession of the respondent, and it was alleged that same were concealed by him. The respondent in response to the same, stated that he, along with the eviction petition, had filed complete sets of documents and disclosed all material facts as would be required for adjudication of the eviction petition, and no concealment has been made in the matter. However, no specific denial was made by the respondent with respect to the properties mentioned in the paragraph 48 of the affidavit filed by the petitioners along with the application seeking leave to defend, to rebut or deny the fact, whether the same were not in occupation and possession of the respondent. The respondent had also not made any averment with respect to the status of the said properties. Perusal of the findings returned by learned ARC with respect to alternate suitable accommodation shows that the aforesaid properties mentioned by the petitioners in their application seeking leave to defend were just referred to but not dealt with in the impugned order, and nor any specific findings have been given regarding the said properties by learned ARC. The averments made on behalf of the petitioners in their leave to defend application, with respect to availability of the properties enlisted, as noted



hereinbefore, in view of the vague response made on behalf of the respondent, will be a triable issue.

**33.** Learned ARC has overlooked the properties mentioned in paragraph 48 of the application seeking leave to defend filed by the petitioners. Once such an assertion was made by the petitioners, then it was incumbent upon learned ARC to deal with the same.

**34.** Thus, the fact whether said properties would be sufficient to satisfy the *bonafide* requirement of the respondent, or would constitute alternate suitable accommodation is a triable issue, which needs to be contested at the stage of trial by leading adequate evidence.

**35.** In these circumstances, in the considered opinion of this Court, the aforesaid properties, as stated by the petitioners in paragraph 48 of the application seeking leave to defend constitute a triable issue and requires consideration.

**36.** In **Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta**<sup>11</sup>, the Hon'ble Supreme Court laid down the law in relation to scope of interference by the High Court in a petition under Section 25B (8) of the DRCA, had observed and held as under: -

“**11.** ..... The revisional jurisdiction exercisable by the High Court under Section 25-B(8) is not so limited as is under Section 115 CPC nor

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<sup>11</sup> (1999) 6 SCC 222



so wide as that of an appellate court. The High Court cannot enter into appreciation or reappraisal of evidence merely because it is inclined to take a different view of the facts as if it were a court of facts. **However, the High Court is obliged to test the order of the Rent Controller on the touchstone of “whether it is according to law”. For that limited purpose it may enter into reappraisal of evidence, that is, for the purpose of ascertaining whether the conclusion arrived at by the Rent Controller is wholly unreasonable or is one that no reasonable person acting with objectivity could have reached on the material available. Ignoring the weight of evidence, proceeding on a wrong premise of law or deriving such conclusion from the established facts as betray a lack of reason and/or objectivity would render the finding of the Controller “not according to law” calling for an interference under the proviso to sub-section (8) of Section 25-B of the Act. A judgment leading to a miscarriage of justice is not a judgment according to law.** (See: *Sarla Ahuja v. United India Insurance Co. Ltd.* [(1998) 8 SCC 119] and *Ram Narain Arora v. Asha Rani* [(1999) 1 SCC 141] .)”

(emphasis supplied)

37. In view of the aforesaid facts and circumstances of the present case, in the considered opinion of this Court, the petitioners have been able to raise triable issue with respect to availability of alternative suitable accommodation which requires consideration. In view thereof, the impugned order dated 09.08.2018 passed in E-851/17 (CIS No.987/17) is set aside.

38. The present petition is allowed and disposed of.

39. Insofar as the application, **CM APPL. 5614/2019**, filed on behalf of the petitioners, during the pendency of the present petition, seeking leave to place on record additional documents is concerned, this Court need not examine the contents of said application, in view of the aforesaid discussion. The petitioners will be at liberty to move an appropriate application before



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learned ARC regarding the same which would be considered by learned ARC in accordance with law.

40. The matter is remanded back to learned ARC for further proceedings in accordance with law.

41. Pending applications, if any, also stand disposed of accordingly.

42. Needless to state that it shall remain open to the respondent to lead evidence in trial to rebut the averments of the petitioners and the same would be considered by the learned ARC in accordance with law and uninfluenced by any observations made herein.

43. Copy of the judgment be sent to the concerned learned ARC, Central District, Tis Hazari Courts, Delhi, for necessary information and compliance.

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

**AMIT SHARMA  
(JUDGE)**

**MAY 21, 2026/sn/ns**