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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 24th March, 2026**Pronounced on: 30th June, 2026*

+ RC.REV. 288/2023

SMT YOGESHWARI DEVI

.....Petitioner

Through: Mr. Anil K. Airi, Senior Advocate with Mr. Aman Raj Gandhi, Mr. Vardaan Bajaj, Mr. Ojasvi Sharma, Ms. Bindiya L. Airi, Mr. Vishal Tyagi, Mr. Harsh Gautam and Mr. Dhairya Shroff, Advocates.

versus

YOGESH RAJU

.....Respondent

Through: Ms. Rajul Jain and Ms. Poorvi Rewalia, 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, 1958¹, has been filed seeking the following prayers:-

“In view of the facts and circumstances as well as the grounds set out hereinabove, it is most humbly prayed that this Hon’ble Court may be pleased to pass an Order:-

(a) Calling for the record of the Eviction Petition bearing RC No. 423 of 2021, from the Court of Learned Additional Rent Controller, Tis Hazari Courts, Central District, New Delhi;

¹ For short, ‘DRCA’



(b) Setting aside the Impugned Order dated 01.08.2023 passed by the Learned ARC in RC No. 423 of 2021;

(c) Awarding cost of the proceedings in favour of the Petitioner and against the Respondent; and

(d) Such other and/or further order(s) / direction(s) as this Hon'ble Court may deem fit in the interest of justice, equity and fair play.”

2. The present revision petition has been filed assailing impugned order dated 01.08.2023 passed by learned Rent Controller, Tis Hazari Courts, Central District, New Delhi, in RC No. 423 of 2021, whereby the learned RC had allowed the application seeking leave to defend filed by the respondent in respect of demised premises, *i.e.*, shop bearing No. 5436, Gali No. 71, Raigarpura, Arya Samaj Road, Karol Bagh, New Delhi – 110051 situated in property bearing Plot No. 432, Block B, Gali No. 71 (Basti Regar Pura), Karol Bagh, New Delhi – 110051 (subject property), on the ground that the respondent has been able to raise a number of triable issues with respect to the non-availability of the suitable accommodation with the petitioner. *Vide* the impugned order, the respondent was directed to file written statement within 30 days.

3. In the eviction filed by the petitioner, it is stated that she is the owner/landlady of the demised premises having purchased the same *vide* Sale Deed dated 31.12.1991 from the previous owners, namely Sh. Kanwar Pal, Sh. Surender Pal, and Sh. Satya Pal, who had inherited the subject property from late Sh. Gopal Krishan. It was stated that lease agreement in respect of the demised premises was created in the year 1958 by the original owner Late



Sh. Gopal Krishan with Sh. Manohar Lal Aggarwal, father of the respondent, at a fixed monthly rent of Rs. 50/- excluding electricity charges. Upon purchase of the property by the petitioner in 1991, the respondent and his father Manohar Lal Aggarwal acknowledged the petitioner as the landlady and continued the tenancy under her. Father of the respondent was running a general store and after his death, the respondent succeeded to the tenanted premises; however, it is stated that the respondent is not doing any business from the demised premises, and he simply opens and closes the same, and sometimes has been seen playing cards in the demised premises.

4. It is stated in the petition that petitioner has four daughters, namely, Geetanjali (qualified experienced optometrist); Parul (settled abroad in Santiago); Latika (Law graduate and presently posted as Senior Legal Manager in Union Bank of India, Nariman Point, Mumbai) and Ridhima (has done an MBA (HR) and is in service in private sector in NOIDA). It is stated that petitioner has three shops in Regarpura, Karol Bagh, situated at main Arya Samaj Road. Out of the said shops, one shop is occupied by the husband of the petitioner, who is enrolled as an Advocate with Bar Council of Delhi and is providing free legal advice to SCs, STs and OBCs after his retirement from Department of Customs. In the said shop, petitioner's daughter Latika was, earlier, practicing law; however, after joining Union Bank of India, she had left for Mumbai. The petitioner required the demised premises alongwith the adjoining shop, which is in the possession of other tenant Purushotam Prashad. It is further stated that the one of the daughters of petitioner, Geetanjali is a qualified experienced Optometrist from AIIMS and has passed various certificate courses. She has an experience of more than 18 years as an



optometrist and had worked in various hospitals in Delhi and now she was to start her own business/clinic of an optometrist. In one of the shops she will have her reception and her personal space to sit and in the other shop she will have the necessary machinery/equipment and showroom of eye-lenses/glasses. The demised premises as well as adjoining shop is most suitable for the petitioner's daughter to run her own business in Ophthalmic techniques as the subject shops are situated on main Arya Samaj Road, Regarpura, Karol Bagh, Delhi. It was further stated that the petitioner is staying nearby the demised premises and her residence is only at a distance of 50-60 mts. to the shop in question and therefore the same is most suitable place for her daughter to run the aforesaid business. It is further stated that another eviction petition to the same effect was also filed by the petitioner against the said tenant separately. It was further stated that the petitioner has no other premises in Delhi or in NCR where she can settle her daughter.

5. The respondent filed leave to defend application, wherein it was stated that the petitioner has taken false and frivolous grounds in the eviction petition to get the respondent vacate the demised premises. It was stated that the petitioner is neither the owner nor landlord of the demised premises. It was further stated that false site plan has been filed by the petitioner and deliberately, the number of shops existing in the suit property were hidden. It was further stated that there are two shops on the ground floor which are lying vacant and are in the possession of the petitioner. It was further stated that the entire first, second, third, and fourth floor of the property are also lying vacant, and are in the possession of the petitioner. It was further stated that the petitioner has deliberately not disclosed about the four vacant shops on the



ground floor, one commercial godown/basement and four commercial floor which are lying vacant and in the possession of the petitioner in property bearing Nos. 68-69/5361 Regarpura, Karol Bagh. The site plan filed by the petitioner is incorrect inasmuch as the shop allegedly shown in the possession of her husband is connected with the remaining part of the ground floor whereas in reality there is a gap of at least three feet between the shop and the remaining part of the building. It was further stated that the daughter of the petitioner is having number of commercial properties in her own name and in joint name with her husband, and the said fact has been deliberately concealed by the petitioner. It was further the case of the respondent that real name of the daughter of the petitioner is 'Geetanjali Bhattacharya' and she is residing with her husband in South Delhi, and the petitioner had filed her false voter ID card. It was stated that daughter of the petitioner is an owner of the property, *i.e.*, 9541, Pocket C-9, Vasant Kunj, New Delhi, which is a commercial building.

6. The petitioner filed reply to the application seeking leave to defend filed by the respondent, wherein the aforesaid averments were denied. Rejoinder was also filed on behalf of the respondent; wherein similar averments were made.

7. Learned Senior Counsel appearing on behalf of the petitioner/landlord submitted that the ingredients of Section 14(1)(e) of the DRCA have been satisfied by the Petitioner/landlord and no triable issues were raised by the Respondent/tenant. However, the Trial Court still proceeded to allow the Application for Leave to Defend/Contest.



8. Learned Senior Counsel for the Petitioner/landlord has further contended that the landlord-tenant relationship was also not disputed, and that the *bonafide* need of the Petitioner/landlord was not in issue before learned ARC, and that the only issue which was raised was the availability of suitable alternate accommodation. The only ground on which application seeking leave to defend was allowed was that there is an alternate accommodation available, which accommodation according to the petitioner/landlord is not reasonably suitable for the purpose for which subject eviction petition was filed. It is further submitted that that petitioner herself is a senior citizen aged more than 65 years, and required the subject premises for her daughter, who is a qualified Optometrist from AIIMS with over 18 years of experience, to start her own work. As per learned Senior Counsel for the petitioner, the aforesaid were sufficient grounds for the learned RC to not have allowed the application seeking leave to defend to the respondent by the impugned order dated 01.08.2023.

9. Learned Senior Counsel for the petitioner further submitted that despite the landlord tenant relationship having been admitted, the aspect of *bonafide* requirement has been wrongly appreciated by the learned RC.

10. It is further submitted that, though, the petitioner was having alternative accommodation, the same did not preclude her from seeking vacation of the subject premises, more so, since it was on a ground floor and for a specific medical purpose for her daughter to start from an area which was commercially as well as financially viable for her. Further, the alleged



alternate accommodations were also not suitable for satisfying the *bonafide* requirement of the petitioner.

11. Learned Senior Counsel has submitted that learned RC has erred in concluding that there are triable issues in respect of three suitable alternate accommodations. *Firstly*, with respect to third shop on the ground floor adjacent to the demised premises, it is submitted that the same is being occupied by husband of the petitioner and learned RC had wrongly concluded that the petitioner has not explained the status of this shop as the same was being shown as occupied by her husband for providing free legal aid. It is submitted that inadvertently in reply to leave to defend application, it is mentioned that husband of the petitioner is occupying space on the first floor of the property. *Secondly*, with respect to status of upper floors on the property, it is submitted that the ground floor offers strategic advantages and provides for high visibility for easy access. It is further submitted that availability/non-availability of the upper floors for setting up a commercial venture like in the present case is of no relevance as ground floor is much more convenient and is ideal choice for opening an optometrist clinic. It is further submitted that learned RC has erred in concluding that reply of the petitioner with respect to upper floor is vague as the petitioner has herself made clear that the upper floor is not in her possession and no space belonging to her is lying vacant, and in any event, the demised premises are the only available accommodation which can satisfy the *bonafide* requirement of the petitioner. *Thirdly*, with respect to availability of shops in another property in *Gali* No. 68-69/5360/1, it is submitted that the said property is not situated on main Arya Samaj Road of Karol Bagh but is rather situated in a



narrow lane- Gali No. 68-69. It is submitted that the petitioner owns only the first floor of the main Arya Samaj Road property, and same is used for residence while other floors are rented or sold. The ground floor shops, including the one which has been sold are not in possession of the petitioner. It is pointed out that learned RC has failed to consider that the property situated in the adjacent *gali* is not an alternate suitable accommodation for the petitioner as the petitioner only has in her possession first floor of the said property and same has been used for residential purposes. The basement and fourth floor of this property has been rented to other tenants. Second and third floors of this property have been sold by the petitioner and are no longer in her possession. It is submitted that these shops cannot be at all compared with the demised premises as the same is situated on the main Arya Samaj Road and in any event considering the location of the said property none of the portions are suitable for satisfying the *bonafide* requirement of the petitioner.

12. Learned Senior Counsel for the petitioner has relied on the following precedents in support of latter's case: -

- i) Yodh Raj v. Narain Kumar & Sons²;
- ii) Batuk Prasad Jaitly v. Rajesh Chugh & Anr.³;
- iii) Udhay Shankar Upadhyaya v. Naveen Maheswari⁴;
- iv) Ragavendra Kumar v. Firm Prem Machinery and Co.⁵;
- v) Anil Bajaj v. Vinod Ahuja⁶;

² 2016 SCC OnLine Del 267

³ 2017 SCC OnLine Del 7558

⁴ (2010) 1 SCC 503

⁵ [2000] 1 SCR 77

⁶ (2014) 15 SCC 610



vi) Abid-Ul-Islam v. Inder Sain Dua⁷;

13. In view of the aforesaid submissions, it is prayed that the impugned order dated 01.08.2023 passed by learned RC allowing leave to defend to the respondent be set aside, and the eviction petition filed on behalf of the petitioner be allowed.

14. *Per contra*, learned counsel for the respondent has submitted that the learned ARC had allowed the application seeking leave to defend filed on the latter's behalf after due consideration of the pleadings of both the parties as well as the grounds/material placed on record by the respondent in his leave to defend application. It is further submitted that the petitioner had placed on record an incorrect and misleading site plan in as much as the position of alternate suitable accommodations available with the petitioners were not disclosed in the same. It is submitted that the same constituted a matter of trial in view of the judicial precedents and, therefore, there is no infirmity in the impugned order. It is further submitted that the petitioner had not approached the Court with clean hands and is, therefore, not entitled to any relief as the material facts were concealed and various contrary stands were taken by the petitioner in a bid to mislead the Court. Attention of this Court has been drawn towards the various averments made in application seeking leave to defend filed by the respondent as well as the reply to the same filed by the petitioner and rejoinder thereto. It is further submitted that there has been a deliberate attempt on behalf of the petitioner for seeking eviction of the

⁷ (2022) 6 SCC 30



respondent from the demised premises as material facts were deliberately concealed in the subject eviction petition filed by her.

15. It is further submitted that the petitioner had not provided a clear and specific detail of the total number of floors in the subject property and exact area/portion in her occupation and how the same has been utilized by her. It is pointed out that the respondent had placed on record a counter site plan to demonstrate the actual number of floors as well as shops in the form of alternate suitable accommodation available with the petitioner for satisfying her *bonafide* requirement. It has been argued that there exist three separate shops on the ground floor of the subject property with an open space of approximately three feet between the hall and shops, and the same has not been demonstrated or shown correctly in the site plan filed by the petitioner. It is pointed out that the petitioner's site plan falsely depicts that the shop, allegedly under the occupation and possession of her husband, is connected with remaining part of the ground floor. It is pointed out that said three shops on the ground floor of the subject property adjacent to the demised premises constitute an alternate suitable accommodation. It is further submitted that the petitioner had not disclosed or provided the details of the alleged sale or the portion/floors rented out or sold by her in the subject property or in the other properties available with her. No details as to when the alleged sale transaction had purportedly taken place were disclosed by the petitioner and the pleadings were vague and evasive regarding these facts.

16. It is further submitted that the petitioner had deliberately not disclosed the alternate suitable accommodation available with her and situated at



property bearing no. 68-69/5361(60), Regarpura, Karol Bagh, New Delhi. It is the case of the respondent that only when the existence of this property was brought on record by him in his application seeking leave to defend then only the petitioner admitted the existence of aforesaid alternate accommodation. It is further pointed out that the petitioner had not disclosed the status of possession and occupancy of this property with her for satisfying her *bonafide* requirement. It is further submitted that the averments made by the petitioner in the eviction petition and reply to Leave to defend were at variance and, therefore, it was incumbent upon the petitioner to explain the non-disclosure of the alternate suitable accommodations available at her disposal as pointed out hereinbefore.

17. Therefore, the undisclosed ownership of this property by the petitioner constituted a triable issue requiring consideration. In these circumstances, learned RC had rightly allowed the application seeking leave to defend filed by the respondent.

18. Learned counsel for the petitioner had relied upon the following precedents in support of the latter's case: -

- i) Precision Steel & Engg. Works v. Prem Deva Niranjana Deva Tayal⁸;
- ii) Charan Dass Duggal v. Brahma Nand⁹;
- iii) Liaq Ahmed & Ors. v. Habeeb-Ur-Rehman¹⁰;

⁸ (1982) 3 SCC 270

⁹ (1983) 1 SCC 301

¹⁰ (2000) 5 SCC 708



- iv) Inderjeet Kaur v. Nirpal Singh¹¹;
- v) Hindustan Zinc Ltd. v. Col. Satya Pal Wadhwa & Anr.¹²;
- vi) Sufi Hakim Hafiz Suleman v. Haseena Begum¹³;
- vii) Gurdeen Singh v. Jitender Pal Singh Narang and Anr.¹⁴;
- viii) Nem Chand Daga v. Inder Mohan Singh Rana¹⁵.

19. Heard learned Senior Counsel for the petitioner, and learned counsel for the respondent and perused the records.

20. Learned RC *vide* the impugned order dated 01.08.2023 while allowing the application seeking leave to defend filed on behalf of the respondent had observed as under: -

“15. Now coming to the aspect of bonafide need of the petitioner, the present eviction petition has been filed by the petitioner seeking the eviction of the tenanted premises contending that the tenanted premises is bonafidely required by the petitioner for her daughter who is a qualified and experienced optometrist and wants to start her own clinic. It is further submitted that though earlier the daughter of the petitioner was doing a job as optometrist in New Delhi Center for Sight Pvt. Ltd. at Green Park, however, after the advent of Covid-19 pandemic she has lost her job and is now interested in doing her own practice and as such requires the tenanted premises as well as the adjoining shop which is under the possession of another tenant and that in respect of the second shop another eviction petition has also been already filed. It is also the case of the petitioner that the tenanted premises is most suitable accommodation for her daughter as the same is situated at a place very nearby to the distance of residence of the petitioner and the

¹¹ (2001) 1 SCC 706

¹² 2012 SCC OnLine Del 4951

¹³ 2020 SCC OnLine Del 232

¹⁴ 2025 SCC OnLine Del 2832

¹⁵ (1983) 1 SCC 301



petitioner and her husband having no male child would also be taken care of by her daughter both of them being old and senior citizen. It is also pleaded that except the tenanted premises, no other suitable alternate accommodation is available with the petitioner to meet the requirement of her daughter.

16. On the other hand, the merits in the bonafide need of the petitioner are questioned by the respondent submitting that the daughter of the petitioner is already married and is no more dependent upon the petitioner for any of her need. It is further submitted that the daughter of the petitioner alongwith her husband resides in New Delhi and is also the owner of the property bearing No.9541, Pocket C-9, Vasantkunj, New Delhi which is a commercial building and as such the distance between her residence and the tenanted premises per se makes the said property completely unsuitable for her alleged need and shows that the bonafide need of the petitioner is false and self-created only in order to make out a case for eviction.

18. Thus, in view of the law already settled, there is no merit in the objection of the respondent that the bonafide need of the petitioner is not genuine only because her daughter is married and therefore not dependent upon her mother.

19. Further, as far as the objection with respect to the genuineness of the bonafide need of the petitioner on the ground that the daughter of the petitioner residing in South Delhi and the distance between her residence and the tenanted premises also suggests that the projected need of the petitioner is not genuine, the said objection also does not have any merit as mere long distance between the place of the residence of the daughter of the petitioner and the tenanted premises per se does not make the bonafide need of the petitioner false or ingenuine so long the daughter of the petitioner is willing to start and run her clinic from the tenanted premises.

20. Now proceeding further to decide whether the petitioner is also without any suitable alternate accommodation to satisfy the bonafide need of her daughter, the Court shall look into all the



properties which are stated to be available with the petitioner and her daughter. Firstly, the Court shall discuss the accommodation which is stated to be available at the property in question itself i.e. property bearing No. 5435-5436, Plot No.432, Block-B, situated at Basti Rehgarpara, Gali No.71, Karol Bagh, New Delhi.

21. It is seen that in his leave to defend application, the respondent has raised a plea that two shops on the ground floor of property in question are lying vacant and are under the possession of the petitioner. It is further his plea that one shop which is shown to be in possession of the husband of the petitioner in her site plan is also lying vacant and is available with the petitioner. Similarly, the entire first, second, third and fourth floors of the property which is stated to be commercial in nature also available with the petitioner.

22. At this stage, it is relevant to note here that in reply to such averments, it is denied by the petitioner that two shops on the ground floor are lying vacant or in her possession. It is further replied that the husband of the petitioner is not in the possession of any shop and he is only occupying some space on the first floor of the property which was earlier used by the another daughter of the petitioner who was providing free consultation to the needy people belonging to the SC and ST category and now has already joined the Union Bank of India at Mumbai as a Law Manager. It is submitted that the said space is now used by the husband of the petitioner for same purpose for providing free consultation to the needy people like her daughter. Further, in response to the averment that the entire first, second, third and fourth floors of the property are lying vacant and available, the petitioner has denied the said averment and has further relied that neither all the floors are owned by the petitioner nor any space therein belonging to the petitioner is lying vacant.

23. However, at this stage it is important to note here that as per the site plan of the petitioner depicting the ground floor of the property in question, on the extreme right corner one shop is shown to be in possession of Sh. Dhara Singh Basetiya i.e. the husband of the petitioner which as per the site plan does not have any immediate back wall as is existing in the case of other two shops situated on the ground floor which are under the possession of



respondent and one another tenant namely Purshottam and just behind the said shop, a big hall has been shown in the entire back side area of the property.

24. Now reading the averments/reply of the petitioner in light of her site plan in response to the plea of the respondent that two shops are available on the ground floor as noted earlier, it is implicit that the petitioner is denying that there are two shops lying vacant on the ground floor.

25. At this stage, it is also relevant to look into the site plan of the respondent. In his site plan, the respondent has also shown one shop on extreme right corner of the site plan as is shown in the site plan of the petitioner. However, the respondent has shown the said shop as a separate shop with a back wall like the other two shops on the ground floor which are under the possession of the respondent and another tenant Purshottam. Behind the said three shops, the respondent has shown some open space and thereafter a vacant hall in possession of the petitioner is shown to be existing.

26. **Thus, the site plan of both the parties to an extent admits the existence of a third shop on the ground floor which as per the case of the respondent is lying vacant and available with the petitioner and on the other hand though as per the site plan of the petitioner it is under the possession of her husband Sh. Dara Singh Basetiya, however, as per her reply/pleadings no space is occupied by her husband on the ground floor.**

27. **Thus, the plaintiff has not explained as to what is the status of the said shop which is shown to be existing on the ground floor on the extreme right corner of her site plan and is categorically stated to be not occupied by her husband.** As such it becomes a triable issue and is required to be seen whether or not the said shop is suitable alternate accommodation available with the petitioner.

28. Now, proceeding further towards the other upper floors of the property in question which are stated to be available with the petitioner, it is seen that the reply of the petitioner to the said averment is also vague as though the petitioner has replied that neither all the floors are owned by the petitioner nor any space



therein belonging to her is lying vacant, however, **there is no specific reply of the petitioner as to how many of the said floors are owned and occupied by the petitioner and how the same are being utilized and for what purpose. Thus, the availability or non-availability of the upper floors of the property in question with the petitioner is another triable issue.**

29. Now proceeding towards another property bearing No.68-69/5361, Reharpura, Karol Bagh, New Delhi which is stated to be available with the petitioner, it is to be noted that four vacant shops on its ground floor, one commercial godown basement and four commercial floors belonging to the petitioners are stated to be lying vacant and available with the petitioner. In reply to the said averments, the petitioner has submitted that the correct number of the premises is in fact 5360 and except its first floor which is being used by the petitioner for her residence, none of the other floors belong to the petitioner. On the other hand, in order to prima facie establish such fact the respondent has placed on record the copies of three electricity bills all dated 10.11.2021 bearing the address of the property no.5360/1, Gali No.68- 69, Ground floor, Shop No.1, 2 and 3 which are issued in the name of the petitioner bearing different CA number.

30. It is relevant to note here that alongwith his reply to the leave to defend application and in response to the abovesaid plea, the petitioner has also placed on record a copy of sale deed which is undated and pertaining to the year 2010 to show that the petitioner has already sold off the built-up ground floor portion of the abovesaid property to one Ms. Kiran, W/o- Sh. Chander Shekhar, R/o- 2925/43, Beadonpura, Karol Bagh, New Delhi, however, perusal of the said copy reveals that neither the sale deed bears the signature of the buyer or any witnesses nor the same is a true copy of the alleged original sale deed. 31. It is relevant to note here that during the course of arguments while explaining the abovesaid discrepancies, it was argued on behalf of the Ld. Counsel for petitioner that the petitioner does not possess the original sale deed as the same was kept by the original buyer only and it is only a draft copy of the said sale deed. With respect to the electricity bill relied upon by the respondent, it is further submitted that it may be that even after the purchase of the ground floor, the said buyer may not have changed the electricity connection and that is why the



electricity bills are still issued in the name of the petitioner. However, it is submitted that neither the petitioner nor any of her family member owns or possess any of the portion of the ground floor of the abovesaid property.

32. Though, admittedly the plaintiff has not placed on record any photograph or other document except the electricity bill to show that the ground floor shops or any other portion of the abovesaid property is owned or under the possession of the petitioner, however, the fact that the petitioner has also not denied that previously the ground floor portion was also owned by her and no satisfactory document to establish its sale to a third person is filed alongwith the petition in reply to such specific averment of respondent, it also becomes a triable issue, more particularly when the electricity bills are still generated for the said premises in the name of the petitioner. Whether or not the said three shops on the ground floor actually stands sold or are still available with the petitioner is required to be proved by leading cogent evidence and as such is also a material question and another triable issue.

33. As far as the property bearing No.9541, Pocket-C-9, Vasantkunj, New Delhi which is stated to be owned by the daughter of the petitioner is concerned, since the petitioner has already filed on record copy of lease deed dated 20.03.2017 showing that the said property was taken on lease by the company of the husband of the daughter of the petitioner from one Subhash Chander for his residence, the said property cannot be considered as an available suitable accommodation. Similarly, since the claim that the daughter of the petitioner owns a number of property is also not supported by any material document, the said plea is also untenable.

34. Accordingly, in view of the abovesaid discussion, as the respondent has been able to raise a number of triable issues with respect to the non-availability of the suitable accommodation with the petitioner, his application for leave to defend stands allowed.”

(emphasis supplied)



21. In the eviction petition, the petitioner had specifically averred that she is the owner of three shops in Regarpura, Karol Bagh, New Delhi, which are situated at main Arya Samaj Road. It is further stated that out of the three shops, one shop is occupied by the husband of the petitioner who is enrolled as an Advocate with the Bar Council of Delhi, and is operating from the shop for providing free legal advice after his retirement from Department of Customs. The other adjoining shop is in possession of a tenant, namely, Purshotam Prashad and a petition to the same effect has also been filed against the said tenant separately. It was also stated that since the petitioner is staying nearby the demised premises and her residence is only 50-60 meters away from the shop in question (demised premises), the said premises would, therefore, be more suitable for her daughter to run the business, and thereafter the following assertion was made in paragraph 18 of the eviction petition: -

“18(a)

(F) The petitioner has absolutely no other premises in Delhi or in the whole of the NCR, where she can settle her daughter. The petitioner is the owner of the shop in question and can get it vacated on the ground of bona-fide requirement as detailed above.

****”

22. In response/reply to the leave to defend application filed on behalf of the respondent, the petitioner took an entirely different stand, and it was stated as under: -

“5. That the contents of para No.5 are, wrong and incorrect. The same are- therefore, categorically and vehemently denied. It is wrong and,



denied that the petitioner has either filed a false site plan or has concealed the number of shop in the suit property. The site plan of the suit property is similar to the same which was filed by the respondent herein and the other tenant in the Civil Suit in the year 2000. It is wrong and denied that two shops on the ground floor are lying vacant or are in possession of the petitioner. **It is also wrong and denied that the husband of the petitioner is in possession of any shop. He is only occupying a space on the first floor of the property which is being used by him for providing free consultation to the needy people belonging to ST and SC categories.** The same is being done by him after his daughter, who was earlier running her office from the said first floor premises, as she has been appointed as a Law Manager in the Union Bank of India and is presently posted in Mumbai. It is wrong and denied that the entire first floor, second floor, third floor and 4th floor are lying vacant. Neither all the floors are owned by the petitioner nor any space therein belonging to the petitioner is lying vacant. It is wrong and denied that the entire first floor, second floor, third floor and 4th floor are lying vacant. Neither all the floors are owned by the petitioner nor any space therein belonging to the petitioner is lying vacant. It is wrong and denied that anything has been concealed from this Hon'ble Court.”

(emphasis supplied)

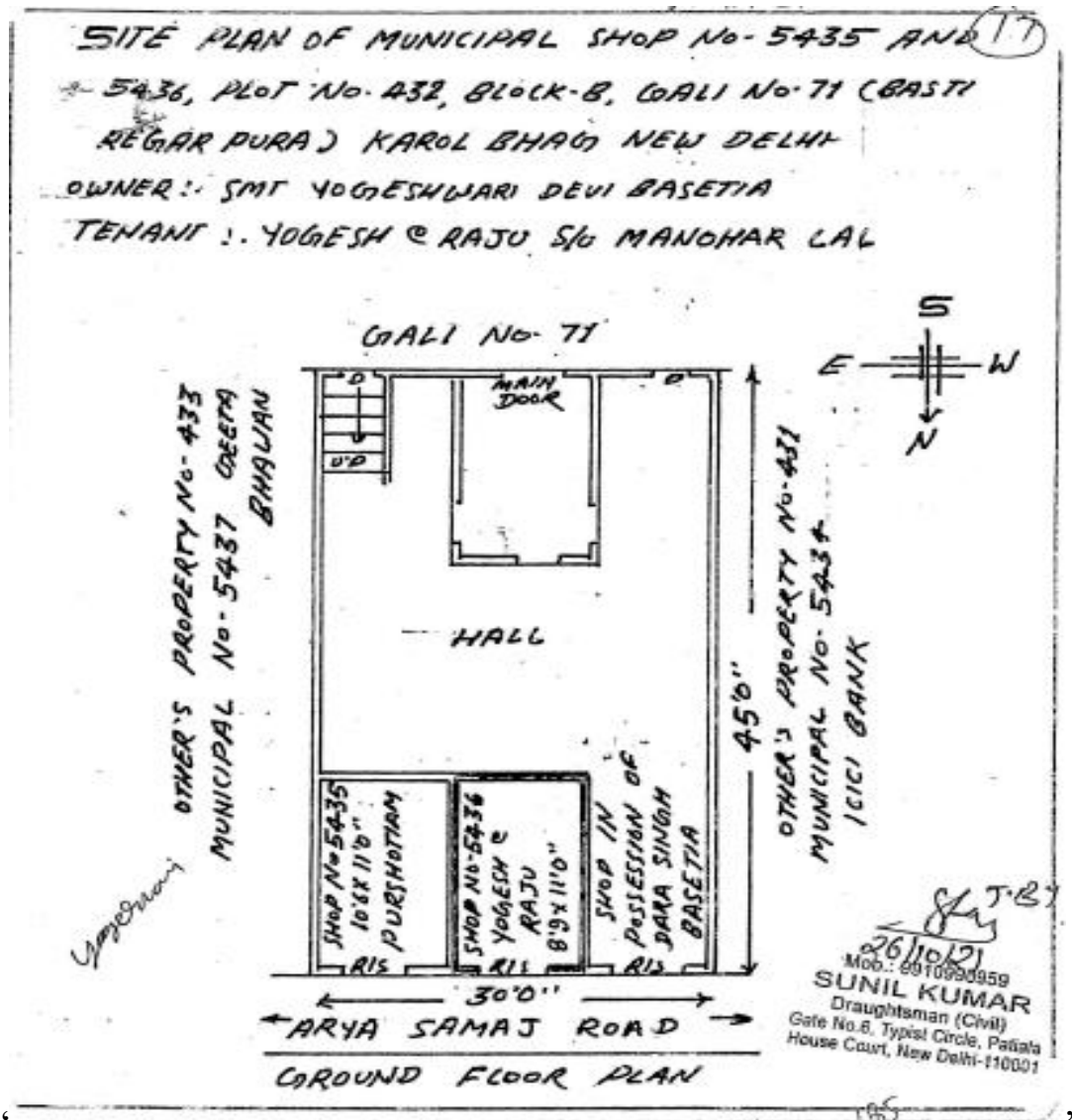
23. Similarly, with respect to the other property pointed out by the respondent in the leave to defend application, the response by the petitioner was in the following manner: -

“6. That the contents of para No.6 are wrong and denied. It is specifically denied that there are four vacant shops on the ground floor of the premises. No.5361 on Gali No.68-69 of Raigarh Pura, Karol Bagh, New Delhi. In fact Number of premises is 5360 which is the residence of the petitioner and the same is on the first floor of the suit property. The other floors are owned by other persons. The second floor is owned by one Rakesh Soni, third floor is owned by one Ravi Prakash and the back portion of the property is owned by one Avdhesh Tiwari.”



Thus, there was complete denial of ownership in any other portion of the said property. This is in complete variance to what has been averred in the present petition.

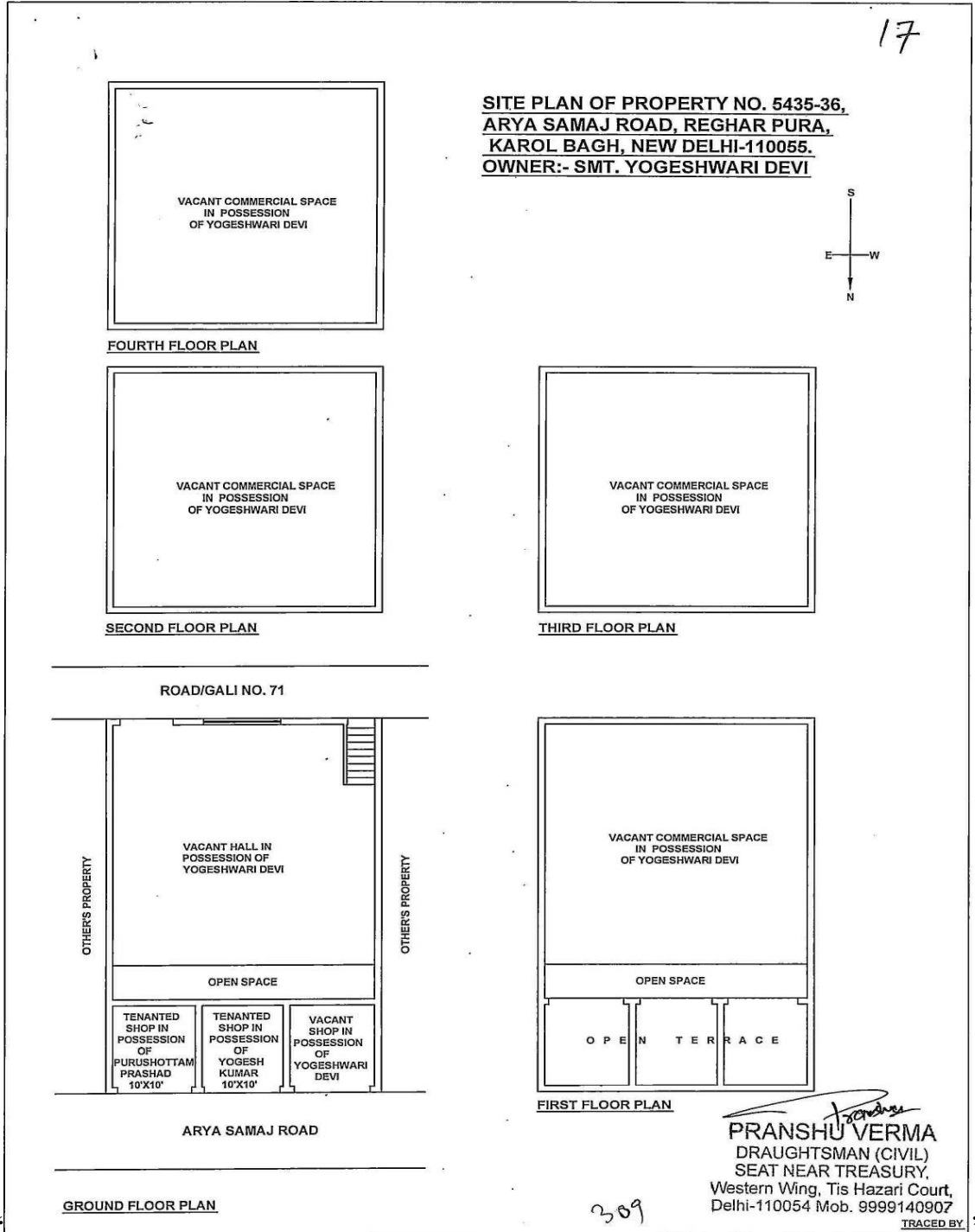
24. The site plan annexed by the petitioner alongwith the subject eviction petition is as under: -



25. A perusal of the aforesaid site plan reflects that there is no mention with regard to any other floor, except the ground floor in the aforesaid site



plan. However, the site plan placed on record by the respondent along with the application seeking leave to defend is in complete contrast to the aforesaid site plan of the petitioner and the same is reproduced as under: -





26. The site plan placed on record by the respondent before the learned ARC shows the existence of three shops on the ground with an open space of approximately three feet between the hall and the shops. Petitioner's site plan, on the other hand, shows that the shop claimed to be in possession of the petitioner's husband is connected to the remaining part of the ground floor. Thus, as per the site plan placed on record by the respondent, the three shops situated on the ground floor are only a small portion of entire ground floor available to the petitioner.

27. It is pertinent to note that in her reply to application leave to defend, the petitioner stated that the husband of the petitioner is occupying some space on the first floor of the property to run his office for providing free consultancy to the needy people, which is contradictory to the site plan and the averments made in the eviction petition, wherein, it was stated that the husband of the petitioner is operating from one of the three shops on the ground floor which was in possession of the petitioner. In fact, on being confronted with the site plan placed on record by the respondent showing first, second, third and fourth floor of the concerned property, the petitioner stated that her husband was operating from a space on the first floor of the property without explaining as to in what capacity he is occupying such space on the first floor. Although, there is a denial with respect to the ownership and possession of the said floors by the petitioner; however, the admission with respect to husband occupying some space on the first floor remains completely unexplained. Furthermore, if the version of the petitioner in the reply to leave to defend is admitted that the husband was occupying some space on the first floor, then there is absolutely no explanation with regard to the status of the



shop at the ground floor which would be lying vacant and is in possession of the petitioner including the hall on the ground floor.

28. Even the site plans placed on record by both the petitioner and the respondent are at complete variance with each other. As noted by learned ARC that site plan by both the parties, to an extent, admit the existence of the third shop at the ground floor. However, in the site plan of the petitioner depicting the ground floor of the property in question, on the extreme right, one shop is shown in possession of the husband of the petitioner which as per this site plan does not have any immediate back wall as is existing in the case of other two shops situated on the ground floor, which are under the possession of the respondent/tenant and other tenant-Purshottam and behind the said shop occupied by the husband of the petitioner, a big hall has been shown in the entire back side area of the property. However, the site plan of the respondent has shown one shop on the extreme right corner towards Arya Samaj Road in possession of the petitioner, and in the said site plan, this shop is shown as a separate shop with a back wall like the other two shops on the ground floor which are under the possession of the respondent and the other tenant and behind the said shops, the respondent has shown some open space and thereafter, a vacant hall in possession of the petitioner. There is no explanation coming forth with respect to the vacant hall in possession of the petitioner. As already noted hereinabove, there is also no specific reply given by the petitioner with respect to the other floors as per the site plan placed on record by the respondent, except for the evasive denial.



29. Similarly, with respect to the other property stated to be in possession of the petitioner bearing Nos. 68-69/5360, Regarpura, Karol Bagh, Delhi, the petitioner in her reply to application seeking leave to defend had submitted that, except for the first floor which is being used by her for her residence, none of the floors belong to the petitioner. It is pertinent to note that respondent had placed on record copies of three electricity bills dated 10.11.2021 bearing the address of the aforesaid property, ground floor shop Nos. 1, 2 and 3 which were being issued in the name of the petitioner bearing the respective CA Nos. Learned ARC has correctly noted that petitioner had produced copy of a sale deed with respect to the ground floor of the aforesaid property in favour of one Ms. Kiran; however, the said sale deed neither bears the signatures of the buyer or any witnesses nor the same is a true copy of the original sale deed. In these circumstances, learned ARC held that these are triable issues.

30. Learned Senior Counsel appearing on behalf of the petitioner had argued that, even if, the petitioner is having alternate accommodation, the same could not preclude her from seeking vacation of the demised premises since it was on a ground floor and the subject petition is filed stating *bonafide* requirement for a specific purpose for her daughter to start own business in Ophthalmic techniques from a place which is commercially and financially viable for such a business. It was further submitted that availability/non-availability of the upper floors for setting up a commercial venture like opening an optometrist clinic will have no relevance as the ground floor is much more convenient and ideal choice for opening the same. Similarly, with respect to the other property bearing Nos. 68-69/5360/1, Regarpura, Karol



Bagh, Delhi, it is submitted that the said property is not situated in main Arya Samaj Road but in a narrow lane-*Gali* Nos. 68-69, and therefore, the same is also not an alternate suitable accommodation for the petitioner. It is also pertinent to note that with respect to the shops on the ground floor on the other property at premises bearing No. 68-69/5360/1, Regarpura, Karol Bagh, as pointed out hereinabove, the petitioner had initially denied ownership of shops at the ground floor, and it was further stated that the petitioner was staying on the first floor of the said property, and other floors in the aforesaid property are owned by other persons. It was also stated that the second floor is owned by one Rakesh Soni, and third floor is owned by one Ravi Prakash, and the back portion of the property was owned by one Avdhesh Tiwari. However, in the synopsis placed on record before this Court, the petitioner has taken a different stand that the basement as well as the fourth floor of the property had been let out to the tenants, and therefore, the petitioner is not in possession of these floors. It is also stated that out of the four shops on the ground floor one has been sold, and remaining three shops had been let out by the petitioner to the other tenants. In fact, during the proceedings before the learned ARC, the stand by the petitioner was recorded in the impugned order dated 01.08.2023 as follows: -

“31. It is relevant to note here that during the course of arguments while explaining the abovesaid discrepancies, it was argued on behalf of the Ld. Counsel for petitioner that the petitioner does not possess the original sale deed as the same was kept by the original buyer only and it is only a draft copy of the said sale deed. With respect to the electricity bill relied upon by the respondent, it is further submitted that it may be that even after the purchase of the ground floor, the said buyer may not have changed the electricity connection and that is why the electricity bills are still issued in the name of the petitioner. However, it is submitted that



neither the petitioner nor any of her family member owns or possess any of the portion of the ground floor of the abovesaid property.”

31. Even the stand taken by the petitioner that the aforesaid property being in an adjoining lane and not on the main Arya Samaj Road, would not be suitable for alternate accommodation also becomes a triable issue. Despite placing on record by the respondent electricity bills in the name of the petitioner with respect to the ground floor of the other alternate property situated in Regarpura, Karol Bagh, nothing had been brought on record to show that out of the four shops in the said property, one has been sold, and other three shops are under the tenancy of some other persons.

32. Learned coordinate Bench of this Court in **Gurdeep Singh v. Jitender Pal Singh Narang and Another**¹⁶, while granting leave to defend to the tenant had noted that a landlord has to establish that vacant premises are not suitable for satisfying his/her *bonafide* requirement and has observed and held as under: -

“6. It is a settled position in law that while deciding an application for leave to defend, the Rent Controller must examine only whether a *prima facie* case is made out by the tenant raising issues which may be triable in nature, irrespective of the final outcome of the pleas so raised. Therefore, at the stage of leave to defend, the threshold to be crossed by the tenant is rather low and there is no need for the tenant to lead incontrovertible evidence proving the same; that is to be determined at the stage of trial. In terms of the burden placed on the landlord, while a presumption may exist in their favour as to the *bona fide* need claimed, once an averment is made to that effect and landlord-tenant relationship is established, it is still the responsibility of the landlord to make out an apparent case of sufficient and reasonable need as well as an absence of alternate

¹⁶ 2025 SCC OnLine Del 2832



accommodation to meet the same. Any material doubt raised as to those issues become triable in nature, warranting grant of leave to defend in favour of the tenant. Needless to state, such an issue cannot be frivolous in nature or raised for the sake of raising a defence, and must be something tenable, even if it might ultimately collapse at trial. [Ref : *Charan Dass Duggal v. Brahma Nand*⁶; *Santosh Kumar v. Bhai Mool Singh*⁷ and *Precision Steel & Engg. Works v. Prem Deva Niranjana Deva Tayal*⁸]. In other words, while at the stage of leave to defend, the tenant need not establish a fool proof case fit for rejection of the petition for eviction in totality, the grounds raised must also not be mere assertions and must raise a triable issue such that gives rise to a necessity for it to be tested at trial for a proper and just adjudication. [Ref : *Abid-Ul-Islam v. Inder Sain Dua*²]

7. A Co-ordinate Bench of this Court in *Mohan Lal v. Tirath Ram Chopra* (Supra) with regards to the facts to be pleaded by the landlord to establish *bona fide* need, held as follows:—

“15...The statements of fact may be as elaborate as the landlord may desire to make, but it will be enough for the landlord to state, in, application for eviction, that he is the landlord and owner of the premises and that the same were let for residential purposes. These are averments of facts. It is not necessary for him to state's to how he became the owner, either by sale, gift, transfer or by will or a family arrangement etc. The law requires the disclosure of all material facts in the pleadings and not the evidence by which they have to be proved. It is for this reason that it is not necessary for the owner of a property to state as to how he became the owner thereof but as bona fide requirement of the landlord or absence of other reasonably suitable accommodation has to be inferred from all the facts and circumstances, he must plead all such facts and circumstances in his application. He has to show as to how the need for getting the recovery of possession of the premises exists. In this connection he may have to plead the accommodation available with him, the non-existence of any alternative suitable accommodation, the extent of the members of the family dependent upon him and the extent of the need of alternative or additional accommodation...”



(Emphasis Supplied)

8. Supreme Court in the case of *Inderjeet Kaur v. Nirpal Singh* (Supra) elucidated upon the burden placed on the landlord to establish his bona fide need in the following manner:—

*13. We are of the considered view that at a stage when the tenant seeks leave to defend, it is enough if he prima facie makes out a case by disclosing such facts as would disentitle the landlord from obtaining an order of eviction. It would not be right approach to say that unless the tenant at that stage itself establishes a strong case as would non-suit the landlord leave to defend should not be granted when it is not the requirement of Section 25B(5). A leave to defend sought for cannot also be granted for mere asking or in a routine manner which will defeat the very object of the special provisions contained in Chapter IIIA of the Act, Leave to defend cannot be refused where an eviction petition is filed on a mere design or desire of a landlord to recover possession of the premises from a tenant under Clause (e) of the proviso to Sub-section (1) of Section 14, when as a matter of fact the requirement may not be bona fide. Refusing to grant leave in such a case leads to eviction of a tenant summarily resulting in great hardship to him and his family members, if any, although he could establish if only leave is granted that a landlord would be disentitled for an order of eviction. At the stage of granting leave to defend, parties rely on affidavits in support of the rival contentions. Assertions and counter-assertions made in affidavits may not afford safe and acceptable evidence so as to arrive at an affirmative conclusion one way or the other unless there is a strong and acceptable evidence available to show that the facts disclosed in the application filed by the tenant seeking leave to defend were either frivolous, untenable or most unreasonable. **Take a case when a possession is sought on the ground of personal requirement, a landlord has to establish his need and not his mere desire. The ground under Clause (e) of the proviso to Sub-section (1) of Section 14 enables a landlord to recover possession of the tenanted premises on the ground of his bona fide requirement. This being an enabling***



provision, essentially the burden is on the landlord to establish his case affirmatively.

(emphasis supplied)

9. The Supreme Court in *M.M. Quasim v. Manohar Lal Sharma*¹⁰ held that when alternate accommodation has been alleged, landlord has to establish that the vacant premises are not suitable for the purpose of his occupation. It was held that:—

When examining a case of personal requirement, if it is pointed out that there is some vacant premises with the landlord which he can conveniently occupy, the element of need in his requirement would be absent. To reject this aspect by saying that the landlord has an unfettered right to choose the premises is to negative the very raison d'etre of the Rent Act. Undoubtedly, if it is shown by the tenant that the landlord has some other vacant premises in his possession, that by itself may not be sufficient to negative the landlord's claim but in such a situation the Court would expect the landlord to establish that the premises which is vacant is not suitable for the purpose of his occupation or for the purpose for which he requires the premises in respect of which the action is commenced in the Court.

10. Recently, in the case of *Sanjay Chug v. Opendar Nath Ahuja*¹¹, the landlords had stated a bona fide need of their sons to run independent businesses, and the tenants had contended that there were other vacant properties. Granting the leave to defend, a Coordinate Bench of this Court held that determining the sufficiency and suitability of the alleged alternate accommodation was a triable issue. It was held that:—

23. Admittedly, in the present case, the respondents have in their possession of commercial accommodation from where their two sons are operating business, their need projected would be nothing but that an additional accommodation for setting up a new business by one of son or expanding the existing business. The projected requirement is to be examined at the time of trial. If the leave to defend is refused,



an opportunity to test the requirement as averred by landlord is denied which is not the scheme of the Act.

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25. This aspect directly goes to the bona fide requirement of the respondents as also to assess the suitability or otherwise of the space from where the respondent was carrying the said business. There is no dispute that a respondent is entitled to have the expansion of her business and can also seek additional accommodation for the same, but, then, it is necessary to know that the space available was either insufficient or not suitable for doing the business. It is necessary to know if it was for the expansion of the said business in view of joining grandson in the tenanted shop. It is triable issue, which is seen to have been raised by the petitioner, and projected requirement of the respondents is required to be tested by the Controller. From the respondents' own pleadings, a triable issue is seen to have been raised by the petitioner.

11. Having established the threshold to be crossed by the tenant at the stage of considering an application for leave to defend, it is prudent to examine the contentions raised by the petitioner in the present case in that light. In his application seeking leave to defend, the petitioner had alleged that the respondent was also occupying property bearing No. 4110, Naya Bazar, Delhi, built up on a plot and measuring 250sq.yard, constructed upto three stories. In the reply to the said application, the respondent had admitted to owning half portion of the property no. 4110, and being in possession of the other half as tenants, at the ground floor and mezzanine. Though the petitioner had alleged that this built up property on a plot admeasuring 250 sq. yds. was a suitable alternative accommodation, the respondent has not specifically averred as to how the portion in their possession is not suitable and sufficient for his requirements.

12. The petitioner had also alleged that the respondent had let out a portion adjoining the demised property to one *Shri. Krishan Kant Sharma* of M/s. of Ganeshaya Trading Company stated to be operating from 4124, Naya Bazaar, Delhi. Though the respondent in their reply to leave to defend application in Para 9 have given the details of the other



occupants, any mention of *Krishan Kant Sharma* or *Ganeshaya Trading Company* is conspicuously absent. It is also admitted that a portion on the ground floor at property no. 4124 is being used only for purpose of sleeping by respondent's labour. Thus, in present facts as the eviction is sought for requiring additional accommodation, the sufficiency of space already available need to be tested in trial. On these grounds alone, the impugned order must go and this Court need not adjudicate upon another contention raised that tenancy was in the name of M/s B. Natha Singh Karan Singh Pvt. Ltd., whereas the eviction petition was against the petitioner in his individual capacity. The contention was denied by respondent by referring to sale deed and legal notice.

13. Considering the aforesaid facts and legal position, this Court is of the view that triable issue is made out, hence, the impugned order dated 19.03.2019 rejecting the petitioner's application for leave to defend is set aside. Needless to state that it shall remain open to the LRs of the late respondent to lead evidence in trial to rebut the averments of the petitioner and the same would be considered by the Trial Court as per law and uninfluenced by any observation made herein.”

(emphasis supplied)

33. There is no dispute in the proposition of law that the alternate available accommodation is an incidental one, and it is not for the tenants to dictate the terms to the landlord as to how he has to live or conduct his business. However, the present case is not the one in which the petitioner/landlord had duly disclosed the alternate available accommodation, and had reasonably explained as to how the same are not suitable for satisfying her *bonafide* requirement. In the present case, it was the petitioner/landlord who had not furnished details of other alternate property available at her disposal, and even when confronted with the alternate properties, a completely vague response has been given, and is at variance with the averments made in the present petition, as pointed out hereinbefore. Once confronted with such material the petitioner cannot take a completely different stand and contend that



irrespective of such non-disclosure the leave to defend applicant should have been dismissed as the learned RC failed to appreciate that the demised premises is only suitable accommodation available to the petitioner for satisfying her *bonafide* requirement.

34. The powers of this Court under Section 25-B(8) of the Act are not as wide as those of Appellate Court, and in case, it is found that the impugned orders are according to law and do not suffer from any jurisdictional error, this Court must refrain from interfering with the same. The power under this provision is limited and supervisory in nature. Only when, it is evident that the Rent Controller has committed grave illegality or came to a conclusion which was not possible, based on the material produced, should this Court interfere in the order passed by the Rent Controller. In **Sarla Ahuja v. United India Insurance Co. Ltd.**¹⁷, the Hon'ble Supreme Court had observed and held as under: -

“8. The satisfaction of the High Court when perusing the records of the case must be confined to the limited sphere that the order of the Rent Controller is “according to the law.” In other words, the High Court shall scrutinize the records to ascertain whether any illegality has been committed by the Rent Controller in passing the order under Section 25B. It is not permissible for the High Court in that exercise to come to a different fact finding unless the finding arrived at by the Rent Controller on the facts is so unreasonable that no Rent Controller should have reached such a finding on the materials available.”

¹⁷ (1998) 8 SCC 119; AIR 1999 SC 100



35. The Hon'ble Supreme Court in **Abid-Ul-Islam v. Inder Sain Dua** (*supra*)¹⁸, with respect to scope of revision under DRCA, had observed and held as under: -

“Scope of revision

22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.

23. The proviso to Section 25-B(8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.”

36. The jurisdiction of the present petition is confined to examining whether the impugned order suffers from any error apparent on the face of the record. The Revisional Court cannot reappraise evidence or substitute its own view, unless the impugned order is shown to be arbitrary, perverse, or

¹⁸ (2022) 6 SCC 30 : (2022) 3 SCC (Civ) 287 : 2022 SCC OnLine SC 419



vitiated by material impropriety. In the absence of such infirmities, there remains narrow scope for interference with the impugned order.

37. In view of the aforesaid facts and circumstances of the present case, no interference with the impugned order dated 01.08.2023 passed by learned Rent Controller, Central District, Tis Hazari Courts, Delhi, in RC No.423/2021 is called for, and the same is accordingly upheld.

38. The present petition is dismissed and disposed of.

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

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

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

**AMIT SHARMA
(JUDGE)**

JUNE 30, 2026/sn/ns/ah