



2025:DHC:7701



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 1<sup>st</sup>, September, 2025**

+ CM(M) 1687/2025 &amp; CM APPL. 54880-54882/2025

MAHESH KUMAR .....Petitioner

Through: Mr. Puneesh Grover, Advocate  
(Through VC)

versus

PREM PRAKASH .....Respondent

Through: Mr. Kumar Manish, Advocate

**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT** (oral)

1. Petitioner is defending an eviction petition filed on the ground of *bonafide* requirement.
2. It was filed in the year 2013.
3. An application seeking *leave to defend* was moved on 18.12.2013, but, unfortunately, arguments on said application have yet not been heard.
4. After more than a decade, an application was moved seeking amendment in such *leave to defend* application and the grievance is with respect to dismissal of such application.
5. When the application seeking *leave to defend* was moved, tenant, therein mentioned he was earlier a tenant in the demised premises and that he had surrendered his tenancy rights in February 2006, and, thereafter, one Mr. Rajiv Soni, was taken as tenant in the demised premises w.e.f. 01.03.2006.
6. In the application seeking amendment, it has been claimed that previous counsel had taken a *fictitious plea* regarding *surrendering of tenancy* and such plea was taken without any instructions and without any knowledge and consent of the tenant. It is submitted by the tenant that his then counsel



had assured that there was no need of his appearing before the Court and he had taken his signatures on certain papers. All in all, according to tenant, he had never taken any such plea that he had ever surrendered his tenancy rights and that one Mr. Rajiv Soni, thereafter, became a tenant in the demised premises.

7. It is, however, quite baffling and surprising as to how an application to the aforesaid effect was filed after more than ten years.

8. When asked as to what was the educational qualification of the tenant, no definite reply could come from his counsel.

9. This Court is conscious about the procedure prescribed for any such petition which seeks eviction on the ground of *bonafide* requirement. In such type of matters, timeframe has been given for the purposes of filing any application seeking *leave to defend* and the summary procedure and the objective behind incorporation of Section 25(B) of Delhi Rent Control Act, 2015 cannot be sidelined and disregarded in the manner it is being attempted to be done in the case in hand.

10. The entire thrust of the tenant is to pass on the buck to his previous counsel by contending that the aforesaid stand regarding surrendering of tenancy was without any instructions. It is also contended that same counsel was representing the alleged sub-tenant as well which smacks of *malafide* on his part. It is also argued that a complaint against the previous counsel has already been lodged with the Bar Council of Delhi and, therefore, it was a fit case where such amendment should have been allowed by the learned Controller.

11. By moving amendment application, the sole endeavour of the tenant is to retract from what has been mentioned in his application seeking *leave to*



*defend*. He wants to wriggle out of his admission and wants to project that he had, all along, been tenant in the premises in question.

12. The impugned order dated 29.11.2024 clearly records that attempt of the tenant is to revert from his admission. It also mentions that if such application is allowed, it would cause irreparable loss and injustice to the petitioner, particularly, when the aforesaid stand was maintained by the tenant for more than ten years.

13. In such type of summary procedure, there is very limited scope of permitting any amendment. It is, at best, restricted to a subsequent event which was not within the knowledge of any such defendant/tenant when the application seeking *leave to defend* was filed at earlier point of time.

14. In *Prithipal Singh v. Satpal Singh (2010) 2 SCC 15*, it was held that the statutory period of 15 days for filing *leave to defend* application was inflexible, and that whatever is to be stated in such application with respect to the facts and events that have happened prior to the 15 days period must be stated in the application itself and not by subsequent documents and affidavits. In *Madhu Gupta v. Gardenia Estates (P) Ltd. 2011 SCC OnLine Del 4500*, this court while placing reliance on *Prithipal Singh (supra)*, held that allowing of amendment in *leave to defend* application would destroy the sanctity of the 15 days period.

15. Here, as already noticed above, there is no subsequent event or subsequent development which necessitated any such amendment. The attempt of the tenant is simply to retract from the specific admission made by him in the year 2013 and such permission cannot be granted, more so, when he has woken up from his slumber after around eleven years. Moreover, a litigant who has audacity of filing affidavit, without even bothering to



ascertain its contents, cannot expect to earn any compassion or sympathy. It looks it all have started with a change in counsel but that does not mean that summary procedure should be completely derailed.

16. The learned Controller has dismissed the application while making following observations: -

*“8. The previous counsel as well as the present counsel were all engaged by the respondent by signing vakalatnamas. It is not the case of the respondent that the earlier counsel was not engaged by the respondent and when he was engaged by the respondent, he has all the powers to act on behalf of the respondent. If the submissions of the respondent is accepted, it could be said on the future day by the respondent that the present counsel was also not instructed by him to file this application and this would be a never ending process.*

*9. Thus, the respondent now cannot claim that the acts done by the earlier counsel was not on his instructions as authority was given by the respondent himself to his earlier counsel to do acts on his behalf and he is estopped from claiming otherwise. It was the duty of the respondent to have acquainted himself as to what was going on in the case, to read the documents before signing them and today he cannot absolve himself from the stand taken by him earlier. Just because a better defence could have been taken earlier, the same may not be permitted by way of amendment.*

*10. It is also noteworthy to mention that by way of the present application, the respondent is taking back his admission of sub letting admitted by him in his leave to defend application. If the present application is allowed, in my opinion it would cause irreparable loss and injustice to the petitioner. The respondent has maintained his stand for more than 10 years and at the drop of the hat the same cannot be allowed. In reference to this point, attention can be drawn to law laid down by Hon'ble Supreme Court of India titled as Ganesh Prasad vs Rajeshwar Prasad & Ors, Civil appeal no. @SLP (C) No. 28377 of 2018 of 2023 is reproduced as under:-*

*“38 Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings.*

*39. In the case on hand, the first suit filed in the small causes court was on the premise that the defendant as a tenant was in arrears of rent and had unlawfully 19 inducted subtenants in the tenanted premises. Thus, the plaintiffs put forward a case, as if,*



*there was a landlord tenant relationship between the parties. The said suit came to be dismissed for non prosecution. Later in point of time, the present suit came to be filed in the civil court with the prayer that the plaintiffs be permitted to redeem the mortgage and take back the possession of the suit property.”*

*11. In view law laid down the aforesaid judgment and aforesaid reasons, the present application under Order 6 Rule 17 CPC tantamounts to taking back the admissions and averring contrary pleadings to the averments pleaded earlier. The reasons stated by the respondent for filing the application after such a long delay, as discussed above, appears to be meritless.*

*Thus, the application under Order 6 Rule 17 CPC is dismissed.*

17. This Court does not find any illegality or perversity in the impugned order. The version and the reason given by tenant does not inspire any confidence.

18. Moreover, it is also not explained as to why the present petition has been filed belatedly. The order impugned before this Court is dated 29.11.2024 and there is no explanation as to why the tenant did not approach this Court quickly.

19. The present petition is accordingly dismissed with request to learned Controller to decide the aforesaid application seeking *leave to defend* as expeditiously as possible.

20. Pending applications also stand disposed of in aforesaid terms.

**(MANOJ JAIN)  
JUDGE**

**SEPTEMBER 1, 2025/dr/js**