



2026:DHC:6232



\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 03.08.2026

CNR No. DLHC010148612021

+ **RC.REV. 66/2021**

SAPNA JAIN

.....Petitioner

Through: **Mr. M. Salim and Mr. Sadaat
Salim, Advocates.**

versus

SHRI PRAVEEN KUMAR JAIN & ANR.Respondents

Through: **Mr. Samrat Nigam, Senior
Advocate along with Ms. Prachi
Pratap, Ms. Pallavi Pratap, Dr.
Prashant Pratap and Ms.
Anupriya Dixit, Advocates.**

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

% **JUDGEMENT (Oral)**

1. The present **Revision Petition¹** has been filed under Section 25(B)(8) of the **Delhi Rent Control Act, 1958²** read with Section 151 of the Code of Civil Procedure, 1908, seeking to set aside the **Order dated 27.01.2020³** passed by the **learned Additional Rent Controller, Central District, Tis Hazari Courts, Delhi⁴** in **Eviction Case No. E-778/18⁵**.

2. Learned counsel appearing on behalf of the Petitioner submits

¹ Petition

² DRC Act

³ Impugned Order

⁴ learned ARC

⁵ Eviction Petition



2026:DHC:6232



that the learned ARC has erred in granting leave to defend by travelling beyond the pleadings of the parties. He contends that the Impugned Order proceeds on the premise that the Petitioner had failed to place on record the complete site plan of the property, thereby giving rise to a triable issue regarding the availability of alternative accommodation.

3. He submits that no such objection was ever raised by the Respondent in the leave to defend application. It is contended that the Respondent neither disputed the correctness or completeness of the site plan filed by the Petitioner nor asserted that any portion of the property had been concealed and therefore, the learned ARC could not have carved out a new case and granted leave to defend on a ground which was never urged by either party.

4. He further submits that the learned ARC has also failed to appreciate that the *bona fide* requirement pleaded in the Eviction Petition is exclusively that of the Petitioner and accordingly, availability of accommodation with the Petitioner's husband or son is wholly irrelevant, as the requirement projected is *qua* the Petitioner alone.

5. **Per contra**, learned Senior Counsel appearing on behalf of the Respondent supports the Impugned Order and submits that the Petitioner has failed to approach the Court with complete candour and has taken inconsistent stands regarding the accommodation available to her family members.

6. It is submitted that, while the Eviction Petition proceeds on the premise that the Petitioner's son is carrying on his business from tenanted premises, the reply to the application seeking leave to defend records that the said business is being operated from premises owned



by him.

7. It is, therefore, contended that these inconsistent pleadings cast a serious doubt on the Petitioner's case regarding the availability of alternative accommodation and raise triable issues warranting the grant of leave to defend.

8. This Court has heard learned counsel appearing on behalf of the parties and perused the material available on record, including the Impugned Order.

9. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioner, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the proviso to Section 25B(8) of the DRC Act.

10. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁶, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁷, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁸, has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

11. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in *Pankaj Pahwa v. Prem Wati & Ors.*⁹, and *Sanjeev Hiranandani v. Sunny Grover*¹⁰.

12. In *Abid-Ul-Islam* (supra), the Hon'ble Supreme Court, while

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30

⁹ 2024:DHC:9322

¹⁰ 2025:DHC:11285



elucidating the legislative intendment underlying Section 25B of the DRC Act, observed that the omission of an appellate remedy against an Order passed by the learned Rent Controller is conscious and deliberate. The jurisdiction conferred upon the High Court is, therefore, one of superintendence over the decision-making process, including the legality and propriety thereof, and does not permit the High Court to substitute its own view for that of the learned Rent Controller merely because another view on the material available on record may be possible. The relevant observations of the Hon'ble Supreme Court read as under:

“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.”

13. In **Pankaj Pahwa** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in **Abid-Ul-Islam** (supra), reiterated that the jurisdiction exercised by this Court under the proviso to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an



absence of adjudication warranting interference.

14. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Order suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

15. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioner against the Impugned Order are required to be examined.

16. Since the challenge in the present Petition is directed against the findings returned by the learned ARC on the issue of the Petitioner's *bona fide* requirement and the availability of alternative suitable accommodation, the relevant findings recorded in the Impugned Order have been extracted hereinabove.

“7. The petitioner had filed site plan along with the petition, however, the same only shows a shop, tenanted premises, whereas, as per the sale deed filed by her, she was also sold the basement which at that time was on lease, however the petitioner had nowhere stated whether the same is available to her or not. As per the sale deed, possession of the first and second floor on the property have been also delivered to her. However, the petitioner had not stated as to what is the current status of the same. As per the sale deed, the property bought by the petitioner is of 34 sq



yards, however, as per the site plan, size of the tenanted shop is only 11' 4"x10'. Petitioner had not filed the complete site plan and had also not revealed who is in the occupation of the remaining portion. The site plan along with the sale deed has not been filed. The respondent had stated that the petitioner is in possession of shops from where saree business is being carried out. The petitioner had stated that her husband is carrying on saree business from a shop which is on rent, however, no document pertaining to same had furnished. In the main petition, the petitioner had stated that her son is carrying on business from tenanted shop, however, in the reply to leave to defend, the petitioner had stated her son is carrying on saree business from his own shop. No document has been filed. The respondent had contented that the petitioner had alternative suitable accommodation to meet her bonafide requirement. The petitioner had not revealed the entire space available to her in which could be otherwise suitable to meet her need.

8. The Supreme Court had in "Inderjeet Kaur Vs.Nirpal Singh", [2000]Supp 5 SCR 707, laid down the following guidelines to be followed by the Courts while deciding the applications for leave to contest filed by the tenants under Section 25(4) of the Delhi Rent Control Act, 1958:-

"11. As is evident from Section 25B(4) & (5) of the Act, burden placed on a tenant is light and limited in that if the affidavit filed by him discloses such facts as would disentitle the landlord from obtaining an order for the recovery the possession of the premises on the ground specified in Clause (e) of the proviso to Section 14(1) of the Act, with which we are concerned in this case, are good enough to grant leave to defend.

12"

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. In short and substance wholly frivolous and totally untenable defence may not entitle a tenant to leave to defend but when a triable issue is raised a duty is placed on the Rent Controller by the statute itself to grant leave. At the stage of granting leave the real test should be whether facts disclosed in the affidavit filed seeking leave to defend prima facie show that the landlord would be disentitled from obtaining an order of eviction and not whether at the end defence may fail. It is well to remember that when a leave to defend is refused, serious consequences of eviction shall follow and the party seeking leave is denied an opportunity to test the truth of the averments made in the eviction petition by cross-examination. It may also be noted that even in cases where leave is granted provisions are made in this very Chapter for expeditious disposal of eviction petitions. Section 25B(6) states that where leave is granted to a tenant to contest the eviction application, the Controller shall commence the hearing of the application as early as practicable. Section 25B(7) speaks of the procedure to be followed in such cases. Section 25B(8) bars the appeals against an order of recovery of possession except a provision of revision to the High Court. Thus a combined effect of Section 25B(6), (7) and (8) would lead to expeditious disposal of eviction petitions so that a landlord need not wait and suffer for long time. On the other hand, when a tenant is denied leave to defend although he had fair chance to prove his defence, will suffer great hardship. In this view a balanced view is to be taken having regard to competing claims.

"14. This Court in Charan Dass Duggal v. Brahma Nand (1983)ISCC301 while dealing with the question in the matter of granting leave to defend to contest the eviction petition filed on the ground of personal requirement, in para 5 has stated thus:



"5. What should be the approach when leave to defend is sought for? There appears to be a mistaken belief that unless the tenant at that stage makes out such a strong case as would non-suit the landlord, leave to defend cannot be granted. This approach is wholly improper. When leave to defend is sought for, the tenant must make out such a prima facie case raising such pleas that a triable issue would emerge and that in our opinion should be sufficient to grant leave. The test is the test of a triable issue and not the final success in the action (see Santosh Kumar v. Bhai Mool Singh). At the stage of granting the leave parties rely in support of their rival contentions on affidavits and assertions and counter- assertions on affidavits may not afford such incontrovertible evidence to lead to an affirmative conclusion one way or the other. Conceding that when possession is sought for on the ground of personal requirement, an absolute need is not to be satisfied but a mere desire equally is not sufficient. It has to be something more than a mere desire. And being an enabling provision, the burden is on the landlord to establish his case affirmatively. If as it appears in this case, the landlord is staying at Pathankot, that a house is purchased, may be in the name of his sons and daughters, but there may not be an apparent need to return to Delhi in his old age, a triable issue would come into existence and that was sufficient in our opinion to grant leave to defend in this case."

15. In the same judgment, in para 7 it is further observed:

"7. The genesis of our procedural laws is to be traced to principles of natural justice, the principal amongst them being that no one shall suffer civil or evil or pecuniary consequence at his back without giving him an adequate and effective opportunity to participate to disprove the case against him and provide his own case. Summary procedure does not clothe an authority with power to enjoy summary dismissal. Undoubtedly wholly frivolous defence may not entitle a person leave to defend. But equally a triable issue raised, enjoins a duty to grant leave: May be in the end the defence may fail. It is necessary to bear in mind that when leave to defend is refused the party seeking leave is denied an opportunity to test the truth of the averments of the opposite party by cross-examination and rival affidavits may not furnish reliable evidence for concluding the point one way or the other. It is not for a moment suggested that leave to defend must be granted on mere asking but it is equally improper to refuse to grant leave though triable issues are raised and the controversy can be properly adjudicated after ascertainment of truth through cross- examination of witnesses who have filed their affidavits....."

9. In another judgment rendered by the Supreme Court in the



case of "Liaq Ahmed vs Habeeb-Ur-Rehman", AIR 2000 SC 2470 it was observed by the Court that:-

"2. Rent Control legislations have been acknowledged to be pieces of social legislation which seek to strike a just balance between the rights of the landlord and the requirements of the tenants. Such legislations prevent the landlords from taking the extreme step of evicting the tenants merely upon technicalities or carved grounds. This Court in *Mangat Rai v. Kidar Nath*. (1980) 4 SCC 276: (AIR 1980 SC 1709) held that where the Rent Acts afford a real and sanctified protection of the tenant, the same should not be nullified by giving a hypertechnical or liberal construction to the language of the statute which instead of advancing the object of the Act may result in its frustration. The Rent Acts have primarily been enacted to give protection to the tenants.

3..... "

4..... "

From the scheme of the Act it is evident that if tenant discloses grounds and pleads a cause which prima facie is not baseless, unreal and unfounded, the Controller is obliged to grant him leave to defend his case against the eviction sought by the landlord. The enquiry envisaged for the purpose is a summary enquiry to prima facie find out the existence of reasonable grounds in favour of the tenant. If the tenant brings to the notice of the Controller, such facts as would disentitle the landlord from obtaining an order for recovery of possession, the Controller shall give him leave to contest. The law envisages the disclosure of facts and not the proof of the facts. In the instant case the Controller as well as the High Court appear to have completely ignored the object of the Rent Control legislation and the scheme of the Act while dealing with the case of the appellants.". Same view has been reiterated by the Supreme Court in a recent judgment in "*Rachpal Singh and Ors. Vs. Gurmit Kaur and Ors.*", (2009)15 SCC 88, in para no.12 which is re-produced below:-

"12. If some triable issues are raised then the controversy can be properly adjudicated after ascertainment of truth through cross-examination of witnesses who have filed their affidavits and other material documents. Burden is on the landlord to prove his requirements and his assertion is required..... "

10. It had been held in *Rampat V Ganga Devi*, RC REV 271/14, Delhi High Court, that "in view of the fact that the tenant had pleaded that a shop is lying vacant, a triable issue of alternative suitable accommodation is made out and the same could not be denied on the ground that photographs have not been filed".



11. In the present case, the documents of the petitioner herself reveal that she has accommodation available besides the tenanted shop, and she had not revealed how the same is not suitable to her. It thus becomes a matter of trial. Hence this raises triable issues, i.e. whether the need of the petitioner is bonafide as projected by her and whether she has alternative suitable accommodation available to her. Therefore, application for leave to defend filed by the respondent is allowed. Respondent is granted leave to defend the present eviction petition.”

17. A perusal of the aforesaid findings reveals that the learned ARC proceeded to grant leave to defend primarily on the premise that the Petitioner had failed to disclose the complete extent of the accommodation purchased by her under the Sale Deed and had not explained the status of the basement, first floor and second floor of the property. Further, the learned ARC also noticed the discrepancy between the averments made in the Eviction Petition and the Reply to the application seeking leave to defend regarding the premises from which the Petitioner's son was carrying on his business.

18. Proceeding on the aforesaid circumstances, the learned ARC concluded that triable issues arose with respect to the Petitioner's *bona fide* requirement and the availability of alternative suitable accommodation.

19. This Court has also independently examined the averments made in the Eviction Petition, particularly those relating to the Petitioner's *bona fide* requirement. The same reads as under:

“

vii)	That the petitioner is aged about 51 years and is a graduate. As on date she is not doing any business and she intends to start her business from the suit premises to sustain herself and contribute towards the family expenses/corpus. The petitioner thus wants to start a new business of Garments from the suit premises. The petitioner has no other suitable accommodation available with her or under her possession in Delhi which is
------	---



	suitable for the said new business of Garments.
viii)	That the husband of the petitioner Shri Sushil Kumar Jain is running his “ Saree Business ” from premises bearing No.819 and 779 Nai Sadak, Delhi-110006, both of which are tenanted premises.
ix)	That son of the petitioner Sh. Sourabh Jain is a graduate and is aged about 26 years. He is presently carrying on his business of “ Sarees ” from premises/shop No.832, Katra Mahesh Dass, Delhi, which is also a tenanted premises.
x)	That since the husband and son of the petitioner respectively are both carrying on their respective business from the tenanted premises the petitioner desires/intends to start her business of Garments from the suit premises which is owned by her and is her property.
xi)	That hence the premises are required bonafide by the petitioner for herself and for her family members dependent on her for accommodation.
xi)	That the petitioner has no other reasonable or suitable accommodation/property in Delhi which is available and/or suitable to the petitioner and/or her family members from-where she can start her business except for the suit premises.
xii)	That the husband or the son of the petitioner also do not have any other suitable accommodation available in Delhi from-where the petitioner can carry out her business activities, hence the requirement of the petitioner of the suit premises is bonafide. The petitioner intends to carry out her business/commercial activities from the suit premises for her sustenance.

”

20. A holistic reading of the aforesaid pleadings makes it evident that the requirement projected in the Eviction Petition is the Petitioner's own requirement, as it has specifically been pleaded that she intends to commence an independent business of garments for her own sustenance and to contribute towards the family expenses. The references made to the businesses carried on by her husband and son are only in the context of explaining that they are independently carrying on their respective businesses and that the Petitioner herself



2026:DHC:6232



does not have any other reasonably suitable accommodation from where she can commence the proposed business.

21. Viewed from the aforesaid perspective, this Court finds that the learned ARC has not examined the Petitioner's pleaded requirement in its appropriate perspective.

22. Though the Impugned Order notices the alleged inconsistency regarding the Petitioner's son's place of business as well as the non-disclosure of the remaining portions of the property, it does not indicate how either of these circumstances, either individually or cumulatively, would disentitle the Petitioner from maintaining the plea that the suit premises were required by her for commencing her own independent business.

23. Similarly, while observing that the Petitioner had not disclosed the status of the remaining portions of the property, the learned ARC has not identified any specific portion which, on the basis of the material available on record, could constitute a reasonably suitable alternative accommodation for the purpose projected in the Eviction Petition. The conclusion that the Petitioner possessed alternative suitable accommodation has thus been recorded without any examination of the suitability or availability of any identified premises.

24. Therefore, in the considered opinion of this Court, the averments contained in the Eviction Petition, when read as a whole, consistently disclose that the requirement projected is exclusively that of the Petitioner and the Impugned Order, however, does not undertake any examination of the Petitioner's own requirement and instead proceeds principally on the basis of the circumstances noticed hereinabove.



2026:DHC:6232



25. Consequently, the aforesaid infirmity squarely brings the present case within the limited contours of the revisional jurisdiction exercisable by this Court, warranting interference, under the proviso to Section 25B(8) of the DRC Act.

26. In view thereof, the present Petition deserves to be allowed, and the Impugned Order passed by the learned ARC is accordingly set aside.

27. The matter is remanded to the learned ARC for fresh consideration of the application seeking leave to defend in accordance with law.

28. It is clarified that this Court has not expressed any opinion on the merits of the rival contentions and all rights and contentions of the parties are left open to be considered by the learned ARC.

29. The parties shall appear before the learned ARC on 20.08.2026.

30. Resultantly, the present Petition, along with pending application(s), if any, stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 03, 2026/nd/jk