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

Date of decision: 03.09.2026

CNR No. DLHC011024552025

+ RC.REV. 401/2025, CM APPL. 79448/2025 (Stay), CM APPL. 79450/2025 (Seeking leave to challenge the order dt. 14.08.2025), CM APPL. 43672/2026 (For urgent hearing and stay of the Execution Proceeding pending before Ld. Senior Civil Judge), CM APPL. 59557/2026 (For placing an additional document on record by Petitioner) & CM APPL. 59567/2026 (Delay of 34 days in filing the reply to the cm no. 43672/2026)

SH. JAGDISH KUMAR RAJPUT (DECEASED) THROUGH
HIS LR. MRS. RAMA RAJPUTPetitioner

Through: Mr. Arjun Pant and Ms.
Nimisha Menon, Advocates.

versus

KHANDELWAL JAIN SOCIETY AND OTHERS

.....Respondents

Through: Mr. Rajesh Sharma, Ms. Kavita
Sharma and Mr. Suvan Sharma,
Advocates for Respondent No.
1.

CORAM:

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

% **JUDGEMENT (Oral)**

1. The present Petition has been filed under Section 25-B (1) of the **Delhi Rent Control Act, 1958**¹, seeking to set aside the Order dated 14.08.2025 with Eviction Order dated 30.08.2025 passed by the Court of **Senior Civil Judge-Cum-Rent Controller, New Delhi**

¹ DRC Act



District, Patiala House Courts, New Delhi², in RC ARC No. 39/19³ whereby the learned RC dismissed the Application for leave to defend and allowed the Eviction Petition of the Respondent No. 1.

2. At the outset, learned counsel appearing on behalf of the Petitioner, in terms of the statement made before this Court on 17.12.2025, fairly submits that the challenge to the Order dated 14.08.2025 is not being pressed in the present Petition and the Petitioner shall avail of the appropriate remedy as available in law. Accordingly, the challenge in the present Petition is confined to the **Eviction Order dated 30.08.2025⁴**.

3. Mr. Arjun Pant, learned counsel appearing on behalf of the Petitioner, limits his challenge to the Impugned Order on the following grounds.

4. *Firstly*, he submits that the learned RC did not have jurisdiction to adjudicate the issues arising in the present proceedings, since the Respondent is a lessee under the **Government Grants Act, 1895⁵** and the lease in question was entered into between the Respondent and the Government of India on 15.01.1922. He, however, candidly admits that this objection was not raised before the learned RC.

5. In support of the aforesaid submission, he seeks to rely upon the lease deed dated 15.01.1992, which is sought to be placed on record *vide* CM APPL. 59557/2026.

6. He further relies upon the Judgment of the Hon'ble Supreme Court in ***Union of India v. Sir Sobha Singh*⁶** to submit that properties governed by the GG Act would stand excluded from the operation of

² learned RC

³ Eviction Petition

⁴ Impugned Order

⁵ GG Act



the DRC Act and, consequently, from the jurisdiction of the learned RC.

7. He submits that the aforesaid issue is, in fact, the “*elephant in the room*”, as the same goes to the very jurisdiction of the learned RC to entertain and adjudicate the Eviction Petition. He, therefore, submits that unless the applicability of the DRC Act to the premises in question is determined, the Eviction Order could not have been passed by the learned RC.

8. *Secondly*, he submits that the Petitioner had, in any event, brought to the notice of the learned RC that sufficient suitable accommodation, as well as vacant land, was available to the Respondent and could be utilised for the *bona fide* requirement pleaded by the Respondent.

9. **Per contra**, learned counsel appearing on behalf of Respondent No.1 submits that the objection regarding the applicability of the GG Act and the consequent lack of jurisdiction of the learned RC has been raised for the first time before this Court.

10. He submits that, having regard to the limited jurisdiction statutorily conferred upon this Court under Section 25-B(8) of the DRC Act, this Court cannot ordinarily take cognizance of fresh facts which were neither pleaded nor urged before the learned RC.

11. He further submits that the issue regarding the availability of alternate suitable accommodation and vacant land was duly considered by the learned RC and that no ground for interference is made out in exercise of the limited revisional jurisdiction of this Court.

12. He, therefore, submits that the Impugned Order does not

⁶ 2026 SCC OnLine SC 658



warrant any interference and that the present Petition deserves to be dismissed.

13. This Court has heard learned counsel appearing on behalf of the parties and, with their able assistance, has perused the material on record, including the Impugned Order and considered the judgment handed over across the Bar.

14. 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.

15. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***⁷, ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***⁸, and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***⁹, 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.

16. 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.***¹⁰, and ***Sanjeev Hiranandani v. Sunny Grover***¹¹.

17. In ***Abid-Ul-Islam*** (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25(B) of the DRC Act, observed that the omission of an appellate remedy against

⁷ (1998) 8 SCC 119

⁸ (2014) 9 SCC 78

⁹ (2022) 6 SCC 30

¹⁰ 2024:DHC:9322



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.”

18. 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.

¹¹ 2025:DHC:11285



19. 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 Judgment 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.

20. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged by the learned counsel on behalf of the Petitioner against the Impugned Judgment are required to be examined.

21. The first and principal contention raised by learned counsel for the Petitioner, which he describes as the “*elephant in the room*”, is that the learned RC lacked jurisdiction to entertain the Eviction Petition in view of the applicability of the GG Act. In support thereof, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Union of India v. Sir Sobha Singh*** (supra).

22. A perusal of the aforesaid judgment, however, shows that the issue therein arose in the context of the original lessee *vis-à-vis* the lessor and the applicability of Section 3 of the GG Act to the lease in question. It was in that context that the Hon'ble Supreme Court considered the applicability of the provisions of the DRC Act to the



premises covered by the Government grant.

23. The facts of the present case stand on a materially different footing. The Petitioner herein is not the original lessee under the Government of India. As is evident from the Petitioner's own case, he claims to be a tenant under the Respondent, who is the lessee under the Government of India. The judgment relied upon by learned counsel for the Petitioner, therefore, does not advance his case.

24. Furthermore, the aforesaid objection regarding the applicability of the GG Act and the consequent lack of jurisdiction of the learned RC was admittedly never raised before the learned RC, and the Petitioner, therefore, cannot in exercise of the limited revisional jurisdiction of this Court under Section 25-B(8) of the DRC Act, seek to introduce a new factual foundation which was neither pleaded nor urged before the learned RC.

25. The said contention raised by the Petitioner is, accordingly, rejected.

26. Adverting to the second challenge raised by learned counsel appearing on behalf of the Petitioner, this Court takes note of the consideration accorded by the learned RC on the aspect of alternate accommodation and vacant land, which reads as follows:

“Alternative Accommodation:-

20. The petitioner has clearly stated in the eviction petition that he does not have any suitable alternative accommodation to satisfy its bonafide requirement.

21. However, in the application, the respondent has alleged that the petitioner has sufficient accommodation to fulfill the projected need.

22. The respondent claimed that the petitioner is in possession of:

- a) More than one acre of vacant within the Khandelwal Jain Society. Also, there is about half acres of land situated behind the tenanted premises and about half acre of land near the temple, which the petitioner got vacated through a court order.
- b) The petitioner has a big hall for conducting various



activities. However, instead of utilizing it for the alleged purposes, the petitioner has been letting it out for private functions and earning a huge amount as rental charges. The said hall is lying vacant and has not been disclosed in the petition nor has it been shown in the site plan.

23. In reply to the leave to defend, the petitioner has admitted that there is open land available with it. However, it has disputed the size/extent of the land alleged by the respondent. The petitioner has further stated that since it is open land, it cannot be utilized for the bonafide requirement which is for built-up and covered space.

24. As regards the alleged availability of big hall and its purported use for private functions, the petitioner has disputed same and stated that the respondent has not filed any document to substantiate its claim.

25. This court finds merits in the submissions of the petitioner. The availability of vacant open land, without construction, cannot fulfil the requirement of the petitioner. So far as alleged availability and letting out of big hall by the petitioner is concerned, the respondent has not filed any document like photograph or rent receipt etc, to support his version. As such, mere bald averments are not sufficient for grant of leave to defend.

26. Apart from the above, the respondent has given the details of following vacant, locked and unused accommodation:

- i) House No.21 - consisting of 2 BHK + Kitchen + Bathroom + Toilet has been kept locked for the last 1 ½ year.
- ii) House No.20 A, which is a residential house, is misused by Sh. Choli Lal for godown purpose.
- iii) House No.18 - 2 BHK+ Kitchen + Bathroom has been kept locked for the last 5 years.
- iv) House No.27 - 1 BHK + Kitchen + Bathroom + Toilet has been kept locked for last 2 years.
- v) House No.2 - 1 BHK+ Kitchen + Bathroom + Toilet was vacated and relet 2 years ago.
- vi) House No. 13 - 2 BHK + Kitchen + Bathroom + Toilet sealed due to unauthorized activities.
- vii) Some more other houses, whose number could not be given as the site plan of the entire property has not been filed and some vacant houses/rooms are being given local numbers.

27. In reply, the petitioner has denied that House No. 21 has been kept locked. As regards Houses No. 20A, 18 and 27, the petitioner stated that they are in possession of old tenants, namely Mahesh Chand Jain, Subhash Aneja and Raj Kumar Jain, respectively. It is also stated that although eviction order has been passed against tenants Mahesh Chand Jain and Raj Kumar Jain, their rent revision petitions are pending before Hon'ble Delhi High Court.

28. With respect to House No. 2, the petitioner denied that it was vacated and re-let 2 years prior to the filing of eviction petition and as regard House No. 13, the petitioner denied that it was sealed by



MCD.

29. After examining the pleadings, this court is of the considered view that the respondent has failed to prima facie establish the availability of the above said residential accommodations with the petitioner. Notably, the respondent has not filed any cogent document, such as photographs or site plan MCD records or rent agreement or receipts to substantiate the claim that the properties mentioned are vacant or available for use or were recently let out.

30. On the other hand, the petitioner has not only controverted the assertions of the respondent but has also provided specific and clear explanation with respect to each of the above said premises. The petitioner has clarified that these premises are either under tenancy or subject to litigation or otherwise not in its possession or control.

31. In such circumstances, it was not enough for the respondent to merely claim that certain premises are vacant or locked. He should have prima facie demonstrated by filing some documents that these premises are usable, suitable and available to meet the petitioner's projected need. It is settled position of law that mere assertions do not raise any triable issue and if these bald assertions are entertained, then every tenant would get away with leave to defend, defeating the intent of the legislature.

32. Hence, in the absence of supporting documents, the bald averments of the respondent regarding existence of alternative vacant accommodation cannot be believed. The petitioner has sufficiently demonstrated that no suitable alternative accommodation is available to it and the respondent has failed to raise any triable issue on this aspect."

(emphasis supplied)

27. A perusal of the aforesaid findings would reveal that the learned RC has considered each of the properties and other spaces alleged by the Petitioner to be available with the Respondent and has found that the assertions regarding their availability, suitability and usability were unsupported by any cogent material.

28. The learned RC has also taken note of the specific explanation furnished by the Respondent with respect to the individual premises and has consequently found that no triable issue arose on the aspect of alternate accommodation.

29. In exercise of the limited revisional jurisdiction under Section 25-B(8) of the DRC Act, this Court finds no error apparent on the face



of the record, material irregularity or perversity in the aforesaid approach. The Petitioner has also not been able to point out any such infirmity in the decision-making process which would warrant interference by this Court.

30. For the reasons stated hereinabove, this Court finds no merit in the present Petition and accordingly, the same stands dismissed.

31. The present Petition, along with all pending application(s), if any, stands disposed of in the above terms.

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