



2026:DHC:6325



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 05.08.2026

CNR No. DLHC010326812026

+ RC.REV. 244/2026

RIYAZ AHMED @ RAJU

.....Petitioner

Through: Mr. Parmod Kumar Singhal and
Mr. Rahul Singhal, Advocates.

versus

RAJENDER

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

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JUDGEMENT (Oral)**CM APPL. 50981/2026 (Seeking Ex-Parte Ad Interim Stay of the execution of the Impugned Eviction Order by Petitioner)**

1. The present Application has been filed under Section 151 of the **Code of Civil Procedure, 1908¹**, seeking *ex-parte* ad-interim stay of the execution of the **Judgment & Eviction Order dated 23.01.2026²** during the pendency of the above-captioned Petition, being RC.REV. 244/2026.
2. Upon making specific query from learned counsel appearing on behalf of the Petitioner, it has been submitted that the Petition be heard for final disposal.
3. In view of the above, the above-captioned Petition, being RC.REV. 244/2026, is taken up for hearing today itself.

¹ CPC² Impugned Order



2026:DHC:6325

**RC.REV. 244/2026**

4. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**³, challenging the Judgment & Eviction Order dated 23.01.2026 passed by the **learned ACJ-cum-ARC-cum-CCJ, North East District, Karkardooma Courts, Delhi**⁴, in case being **RC-ARC/45/2018**, titled “*Rajender v. Riyaz Ahmed @ Raju*”, whereby declining the leave to defend Application filed by the Petitioner and passed the Impugned Order in respect of **one shop in property No. B-1/A, Main Road, Bhajan Pura, Delhi**⁵.

5. Learned counsel appearing on behalf of the Petitioner limits his submissions to two aspects, i.e., one with respect to the *bona fide* requirement and the second with respect to the availability of reasonably suitable alternate accommodation.

6. During the course of arguments, learned counsel appearing on behalf of the Petitioner submits that in the Application for leave to defend, numerous premises had been mentioned by the Petitioner and that despite the same having been enumerated, the learned ARC had not accorded his consideration to the existence of availability of reasonably suitable alternate accommodation being there. He further submits that in view of the fact that there were numerous other premises that were available there was also no *bona fide* requirement and that the entire petition itself is merely a *sham*.

ANALYSIS:

7. This Court has heard the learned counsel appearing on behalf of the Petitioner and also had the occasion to go through the Impugned

³ DRC Act

⁴ learned ARC



2026:DHC:6325



Order herein.

8. 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.

9. 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.

10. 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.

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

⁵ Subject Premises

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30

⁹ 2024:DHC:9322



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.”

12. 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.

13. 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

¹⁰ 2025:DHC:11285



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.

14. 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.

15. The learned ARC has while considering the plea of alternate accommodation accorded his consideration in the following manner:

“....

29. Now, with regard to the **testing of bonafide need of the petitioner** to obtain possession of the tenanted premises, it is well settled that the Court must presume the bonafide requirement of the landlord. The Hon’ble Supreme Court in **Sarla Ahuja v. United India Insurance Co. Ltd., [(1998) 8 SCC 119]** observed that:

“14. The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation, the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case, it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.”



30. The landlord is only required to show that the requirement of the tenanted premises is a bonafide requirement and not merely a whimsical or a fanciful desire by him. The Hon'ble Supreme Court in the landmark case of **"Deena Nath v. Pooran Lal"**[(2001) 5 SCC 705] observed that:

"15...The statutory mandate is that there must be first a requirement by the landlord which means that it is not a mere whim or a fanciful desire by him; further, such requirement must be bona fide which is intended to avoid a mere whim or desire. The "bona fide requirement" must be in praesenti and must be manifested in actual need which would evidence the court that it is not a mere fanciful or whimsical desire.

31. In the present case as well, once the petitioner-landlord has stated that he requires the tenanted premises for a particular use, the Court is required to believe the statement to be true and genuine, unless and until it is shown by the respondent tenant through cogent material that the requirement is fanciful or whimsical. Examining on the said touchstone, this Court is of the view that by filing the present petition for eviction of tenant premises for the bonafide requirement of the son of the petitioner, no ill motive or fault could be found. Petitioner has clearly averred that the elder son, aged about 27 years, married with two children, is unemployed and dependent on the petitioner. The petitioner bona fide requires the tenanted shop to enable his elder son to start a motor parts business.

32. Per contra, respondent claims that the supposed bonafide requirement of the petitioner and his son are merely an eye wash to evict the tenanted premises from the respondent. Respondent claims that petitioner already has many other shops in the same complex where the suit shop is situated as well as in Gamri Extension and Dadri UP. He further alleges that petitioner is drawing rents from shops and therefore, having sufficient means of livelihood, the instant case is merely wielded as a tool to harass the respondent. However, the petitioner has clearly stated that the requirement of the tenanted shop is for starting a business for his dependent son. In such a situation, the burden of proof fell squarely on the respondent to show with precision that elder son of the petitioner has gainful employment or source of income and that he is not dependent upon the petitioner. However, except for mere averments, nothing worth relying on could be produced by the respondent in this regard. Further, respondent also claims that rents from shops is a substantial income however, similarly as above, said contention has not been supported by any cogent material.

33. Further, the respondent has also pleaded mala fide intention of the petitioner to evict the respondent and re-let the premises at a



higher rent. However, once again, except for averments, no other relevant information qua the condition of the property or any document qua re-letting has been made available for the perusal of this court. The respondent has not even mentioned the source of information from where he got know about the alleged reletting news. Such mere toothless averments are not sufficient to raise a grave doubt to the bonafide requirement of the son of the petitioner.

34. It is settled law that no prior experience or qualification is required to establish a bona fide requirement for starting a new business. It is further settled that the landlord is the best judge of suitability of the premises for his requirement, and the tenant cannot dictate that the landlord adjust himself in some other premises. Considering the same, it is held that the petitioner has successfully shown his bonafide requirement of the tenanted premises for his elder son and there is nothing on the record to suggest otherwise.

35. There is nothing on record placed by the Respondent which shows that the necessity of the Petitioner is not genuine / bonafide as he is adamant to get the Suit Shop vacated on false and concocted grounds by playing fraud upon the Court as well as the Respondent.

36. With regards the requirement of there being **suitable alternative accommodation** being available with the petitioner, it is to be noted that it has been repeatedly held that the Courts are not to sit in the armchair of the landlord and dictate as to how the available property of the landlord is to be best utilized by him. The landlord is the absolute owner of his property and the best person to decide which property is to be utilized in what way is the landlord himself. In addition, the respondent also cannot dictate as to how the landlord is to utilize his property. The landlord possesses the prerogative to determine their specific requirements, exercising full autonomy in this regard. It is not within the purview of the courts to impose directives on the landlord regarding the nature or quality of their chosen usage of the tenanted premises. Essentially, the courts should refrain from prescribing any standard or guidelines for the landlord's choices. In **Ragavendra Kumar v. Prem Machinery & Co.** (2000) 1 SCC 679 the Hon'ble Supreme Court was of the view that:

"10...It is true that the plaintiff landlord in his evidence stated that there were a number of other shops and houses belonging to him but he made a categorical statement that his said houses and shops were not vacant and that the suit premises is suitable for his business purpose. It is a settled position of law that the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter. (See Prativa Devi v. T.V. Krishnan [(1996) 5 SCC 353]) In the case in hand



the plaintiff landlord wanted eviction of the tenant from the suit premises for starting his business as it was suitable and it cannot be faulted.”

37. The respondent has stated in his leave to defend that petitioner also owns shops in the same building adjoining the tenanted premises and also other properties in Gamri Extension and Dadri UP. The respondent has relied mainly upon photographs of certain properties. However, photographs by themselves do not establish ownership, possession, vacancy, or suitability of the premises allegedly depicted. In the Rejoinder, the respondent has also filed khasra khatoni and electricity bills of some properties of the petitioner. In contrast, the petitioner has placed on record affidavits of his real brothers, supported by a relinquishment deed, prima facie demonstrating that the petitioner owns only two shops as disclosed. Properties owned or possessed by brothers or other relatives cannot, in law, be treated as alternative accommodation available to the petitioner. Allegations regarding properties in Dadri (U.P.) are vague, unsupported, and in any case irrelevant for the purpose of proceedings under the Delhi Rent Control Act.

38. Further, it is an established position that it is not for the tenant to dictate the terms as to how the landlord should use the subject premises, and it is the sole prerogative of the landlord himself, that too, merely since there are other alternative accommodations available with the landlord. More so, since the assessment of suitability must encompass a range of factors, such as the property's size, location, accessibility, intended use, viability, safety considerations, etc., which collectively have to be taken into consideration whilst dealing with the aspect of availability of alternate suitable accommodation. Simply because an alternate accommodation is available is not, by itself, a ground to deny the landlord's claim for eviction. (Ref: **Akhileshwar Kumar vs. Mustaqim (2003) 1 SCC 462, Anil Bajaj vs. Vinod Ahuja AIR 2014 SC 2294, Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta (1999) 6 SCC 222**)

39. As regarding the plea of non-disclosure and misleading is concerned, mere omission to disclose the existence of alternative accommodation in the pleadings cannot, by itself, be construed as a ground to disentitle the landlord from obtaining a decree of eviction. The hon'ble Delhi High court in **Harbans Singh Vs Anand Tyagi**, RC.REV. 304/2018, CM APPL. 26854/2018, CM APPL. 62844/2025 has observed as under:

“The factum of omission/ non-disclosure of other alternative accommodation with the landlord, in the considered opinion of this Court, can be of relevance if the tenant is able to establish a material significant, connection, linkage or like which carries sufficient weight



for it to be treated as a triable issue. All the more so, whence, mere existence of such alternative accommodation with the landlord, which, as per the needs/requirements of the landlord is not “suitable” in itself not to be treated as the landlord having an alternative accommodation. Thus, the omission/non-disclosure thereof wanes into insignificance. It is also further relevant to bear in mind that there is a clear difference between the landlord having an alternative accommodation and an ‘additional’ accommodation in the context of Section 14(1)(e) of the DRC Act. The parameters for reckoning both the aforesaid being different, are not always the same. By treating them alike, the tenant herein cannot make a case for denying the relief sought by the landlord in an Eviction Petition under Section 14(1) (e) of the DRC Act.”

40. Thus, the respondent has failed to show that the petitioner has any reasonably suitable vacant commercial accommodation for starting motor parts business for his elder son.”

16. Upon a consideration of the submissions advanced and the findings returned by the learned ARC, this Court is unable to persuade itself to hold that the Impugned Order suffers from any jurisdictional error, material irregularity or perversity warranting interference in exercise of revisional jurisdiction.

17. A perusal of the Impugned Order demonstrates that the learned ARC has not only adverted to each of the principal objections raised by the learned counsel for the Petitioner but has also assigned cogent reasons while rejecting the same. The decision-making process, therefore, cannot be said to suffer from any infirmity merely because the Petitioner seeks a different appreciation of the material available on record.

18. Insofar as the plea regarding the existence of reasonably suitable alternate accommodation is concerned, the Impugned Order reflects that the learned ARC has specifically examined the properties



2026:DHC:6325



relied upon by the Petitioner and recorded reasons as to why the said properties could not be treated as reasonably suitable alternate accommodation available to the Respondent. The findings returned are based upon the pleadings and material placed before the learned ARC and cannot be characterised as either arbitrary or unsupported by the record. The contention of the learned counsel for the Petitioner, in substance, seeks a re-appreciation of the factual matrix, which falls outside the limited contours of revisional jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act.

19. Equally, with regard to the challenge to the *bona fide* requirement, this Court finds that the learned ARC has correctly applied the settled principles governing Section 14(1)(e) of the DRC Act while holding that the requirement pleaded by the Respondent, namely, the need of the subject premises to enable his unemployed and dependent son to commence a motor parts business, is genuine and not a mere pretext for eviction. No material has been pointed out by the learned counsel for the Petitioner before this Court to demonstrate that the said conclusion is either perverse or founded upon an erroneous application of law. Rather, the conclusion is borne out from the pleadings and the material placed on record and does not warrant interference.

20. In view of the aforesaid discussion, this Court finds that the Impugned Order neither suffers from any manifest illegality, jurisdictional error, material irregularity nor perversity so as to warrant interference in exercise of the limited revisional jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act, 1958.

21. Accordingly, the present Petition, along with pending



2026:DHC:6325



application(s), if any, stands dismissed.

22. The present Petition is disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 05, 2026/tk/ma