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

Date of decision: 06.08.2026

CNR No. DLHC010357802026

+ **RC.REV. 267/2026 & CM APPL. 51433/2026 (Stay)**

AHSAN UR-RAB AND ANRPetitioners
Through: **Dr. Hilaluddin, Advocate.**

versus

MOHD RAFIRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

% **JUDGEMENT (Oral)**

1. The present Petition has been filed under Section 25-B(8) read with Section 25-B(9) of the **Delhi Rent Control Act, 1958**¹, challenging the **Order and Judgment dated 26.05.2026**² passed by the **learned ARC-02, Central District, Tis Hazari Courts, Delhi**³, in **Eviction Petition bearing No. RC-ARC 73/2025**⁴, titled “*Mohd. Rafi v. Mohd. Ahsan-Ur-Rab & Anr.*”, whereby the Application seeking leave to defend filed by the Petitioners came to be dismissed and an eviction order was passed in respect of **First Floor comprising of one**

¹ DRC Act

² Impugned Order

³ learned ARC

⁴ Execution Petition



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room, dalan, kitchen, store, latrine and Third floor comprising of two rooms, kitchen, latrine/bathroom with roof rights forming part of property No. 481, Chatta Haji Yusuf, Chitli Gate, Chawri Bazar, Delhi – 110006⁵.

2. At the outset, learned counsel appearing on behalf of the Petitioners fairly submits that the challenge to the Impugned Order is confined to the solitary ground that the learned ARC lacked the jurisdiction to entertain and adjudicate upon the Eviction Petition.

3. He submits that the subject premises is an enemy property, which vests in the Government of India by operation of law. It is contended that, since one of the previous owners, Mr. Haji Mohd. Muslim, became a Pakistani national, the subject property acquired the status of an enemy property and consequently vested in the Government of India.

4. He further submits that, once the property had vested in the Government of India, the Respondent could neither claim ownership thereof nor maintain an Eviction Petition under the provisions of the DRC Act.

5. It is also submitted that by the operation of law, the Petitioners have become tenants under the Government of India and that no relationship of landlord and tenant exists between the Petitioners and the Respondent.

6. On the aforesaid basis, learned counsel contends that the learned ARC had no jurisdiction to entertain the Eviction Petition or pass the Impugned Order, and the same is, therefore, liable to be set aside.

⁵ Subject Premises



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7. This Court has heard the learned counsel appearing on behalf of the Petitioners and, with his able assistance, perused the relevant documents as well as the Impugned Order.

8. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioners, 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,

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30

⁹ 2024:DHC:9322

¹⁰ 2025:DHC:11285



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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.”

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



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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.

14. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioners against the Impugned Judgment are required to be examined.

15. Since the challenge before this Court is confined to the aforesaid aspect, it is apposite to note that the learned ARC has duly adverted to and dealt with the same in the Impugned Order. The relevant findings are extracted below:

“18. In the present case, respondents have admitted that their parents have been tenants of one Mr. Haji Mohd. Muslim who sold the suit property to Mrs. Kausar Jamal on the 20.06.1968. Further that by virtue of further sale by Mrs. Kausar Jamal on the 21.04.1994, afore-named property was mutated in the joint names of Mrs. Yasmeen Zia, Mrs. Shereen Zia, Miss Samar Begum and Mr. Mohd. Zubairul Arafeen. That Mrs. Yasmeen Zia and others further sold the said property to Mr. Salah Uddin (also known as Salahuddin), S/o Late Mr. Amjad Ali, and accordingly the title of the said property was mutated in the name of Mr. Salah Uddin on the 24.04.1995 and was registered vide Document No. 3267 in Book No. 1, Volume No. 6792 at pages 147–154 in the office of the Dy. Registrar, which is evident from the sale deed between Mr. Salah Uddin and the Petitioner dated 08.09.2005. It is a settled law for the purpose of petition u/s 14(1)(e) of the DRC Act, absolute ownership is not required to be proved and the only thing to be seen is that the person seeking eviction has a better title than the tenant. Reliance is placed upon case titled as **Jiwan Lal Vs.**



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Gurdial Kaur & Ors. 1995 RLR 162 a Bench of Hon'ble High Court of Delhi while dealing with the concept of ownership in a pending eviction petition under Section 14(1)(e) of the DRC Act had noted as follows: -

"There is a tendency on the part of tenants to deny ownership in cases under Section 14(1)(e). To test the substance of such a plea on the part of the tenants the Courts have insisted that they should state who else is the owner of the premises if not the petitioner. In the present case it is not said as to who else is the owner. Further these cases under Section 14(1)(e) are not title cases involving disputes of title to the property. Ownership is not to be proved in absolute terms. The respondent does not claim the owner of the premises."

19. In Ramesh Chand vs. Uganti Devi, 157 (2009) DLT 450, this Court has specifically held that: -

"It is settled proposition of law that in order to consider the concept of ownership under Delhi Rent Control Act, the Court has to see the title and right of the landlord qua the tenant. The only thing to be seen by the Court is that the landlord had been receiving rent for his own benefit and not for and on behalf of someone else. If the landlord was receiving rent for himself and not on behalf of someone else, he is to be considered as the owner, howsoever imperfect his title over the premises may be. The imperfectness of the title of the premises cannot stand in the way of an eviction petition under Section 14(1)(e) of the D.R.C. Act, neither the tenant can be allowed to raise the plea of imperfect title or title not vesting in the landlord and that too when the tenant has been paying rent to the landlord. Section 116 of the Evidence Act creates estoppel against such tenant. A tenant can challenge the title of landlord only after vacating the premises and not when he is occupying the premises. In fact, such a tenant who denies the title of the landlord, qua the premises, to whom he is paying rent, acts dishonestly. I, therefore, find that there was no infirmity in the order of learned ARC in this respect."

20. Further, in the case titled as Smt. Shanti Sharma & Ors. Vs. Smt. Ved Prabha & Ors., 1987 AIR 2028, the Hon'ble Supreme Court observed: -

"That the meaning of term 'owner' is vis a vis the tenant i.e. the owner should be something more than the tenant. 14. It is also well settled that the petitioner should be something more than the tenant and the petitioner need not prove his ownership in absolute terms. It is sufficient for



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the petitioner to prove or to show that he is something more than a tenant."

21. Hence, it is well-settled that for the purpose of seeking eviction, the landlady/landlord was only required to show that he was enjoying rights in respect of the subject premises and held better title than the tenant. In fact, vesting of absolute ownership is not a pre-requisite for adjudication of an Eviction Petition under Section 14(1)(e) of the DRC Act. The landlord's ownership is good against the world except the true owner.

22. Adverting to averments of respondents that property in question is owned by Custodian of Enemy Property, Government of India. As discussed above, respondents have already admitted tenancy under erstwhile owners of subject property.

23. The argument that erstwhile owner/landlord Mr. Salah Uddin had allowed continuance of the Respondents and their families on the first floor as tenants and an agreement/compromise deed was executed between Mr. Salah Uddin and Respondent No. 1 on the 12.08.1995 whereby said title holder of the above-numbered property transferred absolute ownership rights is not tenable. It is observed that it is a settled law that ownership of immovable property can only be validly transferred by way of sale deed. Further the averments of respondents are vague and unsubstantiated. Respondents have admitted paying rent to erstwhile owner Sallahuddin. On the other hand, petitioner has relied upon registered sale deed. It is settled proposition that if the ownership of property is acquired by a person, the landlordship devolves upon the said person by way of law and there is no requirement of any attornment. In this regard, reliance can be placed upon the judgment of Hon'ble High Court of Delhi in **J.C. Mehra Vs. Smt. Kusum Gupta, 2006 (1) RCR (Civil) 31**. Respondents having admitted acquiring tenancy by operation of law from their predecessors-in-interest have no right to challenge the ownership of the petitioner in view of provision of Section 116 of IEA (122 BSA). It is observed that Section 116 of the Indian Evidence Act lays down as under: -

"116. Estoppel of tenant; and of licensee of person in possession.—No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the



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time when such licence was given."

24. Hence, it is trite that once a tenant is always a tenant. In the present case, as discussed above, petitioner has been able to show better title than the respondents. Moreover, in the application in hand it has not even been pleaded by respondents that respondents are tenants of Custodian of Enemy Property for Government of India. Further even if it is assumed that Custodian of Enemy Property for India asserts that subject property is an enemy property, vesting with him and if Custodian wants to enforce his rights and obtain possession of the said property, petitioner has liberty to initiate proceedings before Civil Court and same cannot be a subject matter of the present eviction petition before the Rent Controller where adjudication of title dispute is not within the jurisdiction of this forum. Reliance is placed upon case titled as **Rameshwar Dayal & Ors. Vs. Custodian of Enemy Property for India & Ors.**, Civil Misc. W.P. No. 4490 & 4484 of 1976, DoD 16.05.1986 (Allahabad High Court), wherein it was held as under:

"5. In the instant case all that has happened is that the Assistant Custodian of Enemy Property has, after holding certain enquiries, come to the conclusion that the properties in question are enemy properties which vest in him. The petitioners who claim to be the tenants in the said properties do not accept this position and assert that properties do not vest in the Custodian. According to them the said properties belong to a Waqf. In these circumstances, if the Custodian wants to enforce his rights and to obtain possession of the properties, he will have to initiate appropriate proceedings. He cannot take forcible possession of the properties from the petitioners. In this view of the matter, it is not necessary for this Court to, in exercise of its power under Art. 226 of the Constitution, decide the question as to whether the concerned properties are enemy properties."

16. A perusal of the aforesaid findings reveals that the learned ARC rejected the Petitioners' objection principally on two grounds. Firstly, that the Respondent had established a title better than that of the Petitioners for the purposes of maintaining an Eviction Petition under Section 14(1)(e) of the DRC Act. Secondly, that even assuming the subject property to be an enemy property, any dispute concerning the



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title thereto or the rights of the Custodian of Enemy Property falls outside the jurisdiction of the learned ARC and is required to be agitated before the competent forum.

17. This Court finds no infirmity in the aforesaid reasoning. Admittedly, the Petitioners have accepted that their predecessors were inducted as tenants by the erstwhile owners of the subject premises. Equally, the learned ARC has taken note of the admitted chain of ownership as well as the registered sale deed in favour of the Respondent.

18. It is trite that under Section 14(1)(e) of the DRC Act, the landlord is not required to establish an absolute or indefeasible title but only a title superior to that of the tenant and accordingly the learned ARC, by perusing the material placed before it, rightly concluded that the Respondent had established a better title than the Petitioners, sufficient to maintain the Eviction Petition.

19. Moving further, the principal submission urged on behalf of the Petitioners before this Court is that the subject premises constitute an enemy property and, therefore, vest in the Government of India by operation of law.

20. In the facts of the present case, this Court is unable to accept the aforesaid contention. As even assuming *arguendo* that such a claim exists, the same does not *ipso facto* divest the Respondent of his right to maintain the present proceedings before the learned ARC nor does it oust the jurisdiction of the learned ARC to adjudicate an Eviction Petition under Section 14(1)(e) of the DRC Act.



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21. As rightly noticed by the learned ARC, if the Custodian of Enemy Property asserts any independent right over the subject premises or seeks to enforce the consequences flowing from the Enemy Property Act, it is always open to the Custodian to initiate appropriate proceedings before the competent forum in accordance with law. However, until such rights are adjudicated or enforced in appropriate proceedings, the mere plea that the property is an enemy property cannot, by itself, defeat an Eviction Petition or require the learned ARC to adjudicate complicated questions of title, which admittedly fall outside its jurisdiction.

22. This Court also finds merit in the reasoning of the learned ARC that the Petitioners, having admitted the tenancy under the erstwhile owners, cannot be permitted to dispute the Respondent's entitlement by raising a plea of superior title founded upon the alleged vesting of the property in the Government of India.

23. Such a contention essentially pertains to title and is beyond the scope of adjudication in proceedings under Section 14(1)(e) of the DRC Act. The learned ARC was, therefore, justified in confining itself to the limited enquiry as to whether the Respondent had demonstrated a title better than that of the Petitioners, which requirement stood duly satisfied on the material placed on record.

24. Consequently, this Court finds that the learned ARC has correctly appreciated both the scope of its jurisdiction and the nature of the controversy raised by the Petitioners and therefore, the Impugned Order neither suffers from any jurisdictional error nor discloses any material illegality or perversity warranting interference



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in exercise of the limited revisional jurisdiction vested in this Court under the proviso to Section 25B(8) of the DRC Act.

25. Accordingly, the present Petition, being devoid of merit, stands dismissed.

26. Pending Applications, if any, also stand dismissed.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 06, 2026/LP/jk