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

**Date of decision: 07.07.2026**

+ RC.REV. 212/2026

SUNIL KHANDELWAL .....Petitioner

Through: Mr. Chetanya Puri, Mr. Jai  
Vardhan, Mr. K. S. Rekhi and  
Mr. Utsav Garg, Advocates

versus

VINOD KUMAR .....Respondent

Through: Nemo

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

**JUDGEMENT (Oral)**

**CM APPL. 41562/2026 (Ex.)**

1. Allowed, subject to all just exceptions.
2. Accordingly, the present Application stands disposed of.

**RC.REV. 212/2026 & CM APPL. 41561/2026 (Stay)**

1. The present Revision Petition [**“present Petition”**], under Section 25B(8) of the Delhi Rent Control Act, 1958 [**“DRC Act”**], seeks the following reliefs:

- a. Allow the present Revision Petition;
- b. Set aside the Impugned Order dated 10.04.2026 passed by the Ld. ARC-01, Central District, Tis Hazari Courts, Delhi in ARC No.143/2025, whereby the Ld. ARC has dismissed the application for leave to defend filed by the petitioner and consequently passed an Eviction Order under Section 14(1)(e) read with Section 25B of The Delhi Rent Control Act, 1958;

....”

2. The short question which arises for consideration in the present Petition is whether the learned ARC, while passing the Order dated



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10.04.2026 [“**Impugned Order**”], failed to consider the specific plea raised by the Petitioner in Paragraph No. 5 of the Application seeking leave to defend under Section 25B(4) of the DRC Act [“**Leave to Defend Application**”]. Paragraph No. 5 of the Leave to Defend Application reads as under:

“5. That admittedly the property no. in the sale deed is 6603, Block No. 9-B, Gali No. 3, Dev Nagar, Karol Bagh, New Delhi 110005. Whereas the number of the respondent is 9/6604-B, Dev Nagar, Karol Bagh, New Delhi. The energisation of electricity connection date is 10.11.1995 in the suit shop. The telephone installed and address is same and there is registration certificate of the establishment issued by the chief Inspector shop and establishment dated 14.12.1975 reflecting the same address/number of the shop, the assessment order dated 17.1.1984 also shows the same property no. of the shop. It is clear from the record that the petitioner is not the owner (land lord) of the suit shop. He has no concern to the shop of the respondent. Even the mother of Petitioner i.e Smt. Ashrafi Devi was not the owner of the respondent's shop. The present petition is an abuse of the process of law and the same is liable to do dismiss.”

3. Learned counsel appearing on behalf of the Petitioner submits that the said specific plea, as discernible from the afore-extracted paragraph, was that the Petitioner was not a tenant in the premises in respect whereof the Respondent claims ownership *i.e.*, the Property bearing No. 6603, Block No. 9-B, Gali No. 3, Dev Nagar, Karol Bagh, New Delhi 110005 [“**Property bearing No. 6603**”], but was, in fact, a tenant of an altogether different property bearing No. 9/6604-B, Dev Nagar, Karol Bagh, New Delhi [“**Property bearing No. 6604**”].

4. He further submits that the learned ARC has failed to consider the aforesaid plea and that no finding or adjudication in respect thereof finds place in the Impugned Order.

5. Learned counsel for the Petitioner contends that the aforesaid plea clearly gave rise to a triable issue and, therefore, the learned ARC



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erred in failing to consider and adjudicate the same while deciding the Application seeking leave to defend.

6. *Per contra*, learned counsel appearing on behalf of the Respondent submits that the aforesaid issue stands subsumed in the discussion and findings returned by the learned ARC, particularly in Paragraph Nos. 8 and 9 of the Impugned Order, which read as under:

“ **LANDLORD-TENANT RELATIONSHIP**

8. As far as the landlord-tenant relationship is concerned, the respondent has disputed the same. It is contended that there is no landlord-tenant relationship between the parties and respondent is owner of the premises. The respondent has filed electricity and MCD bills to show that he is in possession of the premises and the number mentioned in the bills is different from the one mentioned in the petition by the petitioner. The possession of the respondent is admitted by the petitioner himself; however, it is stated that the respondent is tenant in the tenanted shop. The petitioner has also filed counter foils of the rent receipts where the father of the respondent is shown as tenant in the premises in question. The bills relied upon by the respondent are merely proof of possession of property; however, no title documents have been filed by the respondent to prove his ownership over the property/shop. Therefore, the said contention is devoid of merit as only a bald averment has been made by the respondent without cogent proof. Furthermore, it is also pertinent to note that the Hon'ble Supreme Court in **Abid-ul-Islam Vs. Inder Sain Dua, (2022) 6 SCC 30** has held for availing leave to defend a mere assertion by the tenant is insufficient. It is settled law that the petitioner is not required to prove absolute ownership. In this regard it is necessary to mention the law laid down in the judgment titled as **Rajender Kumar Sharma vs. Smt. Leela Wati** reported as **155 (2008) DLT 383**, the Hon'ble High Court of Delhi held that:-

“.....It is settled law that for the purpose of section 14 (1) (e) of Delhi Rent Control Act, a landlord is not supposed to prove absolute ownership as required under Transfer of Property Act. He is required to show only that he is more than a tenant. In this case, the landlord had placed on record the documents by which she became owner. The attornment given by the erstwhile landlord in her favour as well as an admission made by the tenant by filing petition under section 27 of Delhi Rent Control Act acknowledgement the landlordship of landlord”. Thus, the conclusion arrived at by the ARC regarding ownership and relationship of landlord and tenant were based on sound



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legal position and the cogent material before it....”

9. Even otherwise, it is pertinent to note that petitioner has placed on record the copy of registered sale deed dated 17.06.1974 whereby the name of the predecessor of the respondent Sh. Prabhati Ram has been shown as a tenant. The contention of the respondent that he has been falsely shown as a tenant, is devoid of merits. It is pertinent to note that in the leave to defend application, respondent himself has filed registration certificate of the shops and establishment act where the father of the respondent is shown as Prabhati Lal. Therefore, it is no longer res integra that mere raising of baseless contentions against the landlord cannot be a ground for being granted leave to defend to the petitioners. **Reliance in this regard is placed upon the decision of the Hon’ble High Court passed in the case of Mohd. Nasser Vs. Mohd. Zaheer and Anr. RC Rev. No. 267/2016 dated 03.11.2016.** It is trite to state that respondent cannot approbate and reprobate at the same time. ‘Approbate and reprobate’ is a legal principle, also known as the doctrine of election, meaning a party cannot simultaneously approve (approbate) and reject (reprobate) the same thing, transaction, or position, especially to gain an unfair advantage. Essentially, you cannot “blow hot and cold”, as it is a fundamental rule of equity that prevents inconsistent claims or benefits from the same matter. Hence, a bald averment has been made in this regard and therefore the said contention is devoid of merits.”

7. Learned counsel for the Respondent, while candidly conceding that the Impugned Order does not contain any specific discussion with respect to the plea of the Petitioner that he is an occupant of Property bearing No. 6604 and not Property bearing No. 6603, submits, however, that even if the learned ARC were to consider the said plea, no finding favorable to the Petitioner could possibly be returned thereon.

8. This Court has heard the learned counsel for the parties at length and, with their able assistance, perused the material available on record.

9. This Court is of the considered view that once a plea giving rise to a triable issue is specifically raised in an Application seeking leave to defend under the DRC Act, it is incumbent upon the learned ARC



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to consider and adjudicate the same. Whether such a plea would ultimately succeed is a matter to be determined upon due consideration, however, a plea which goes to the very identity of the tenanted premises cannot be left unaddressed. The rejection of a plea upon consideration stands on an entirely different footing from its omission from consideration altogether.

10. In the present case, the Petitioner had specifically pleaded that he was an occupant of Property bearing No. 6604 and not Property bearing No. 6603, in respect whereof the Respondent claims ownership and seeks eviction. Despite the said plea having been specifically raised, the Impugned Order contains no determination thereof.

11. In the considered view of this Court, the submission advanced on behalf of the Respondent that no finding favorable to the Petitioner could, in any event, have been returned on the aforesaid plea, cannot persuade this Court to sustain the Impugned Order. It is not for this Court, while exercising its revisional jurisdiction, to undertake in the first instance an adjudicatory exercise which the learned ARC itself was required to perform. The possible outcome of an adjudication cannot substitute the adjudication itself.

12. In view of the aforesaid, this Court is of the considered view that the Impugned Order dated 10.04.2026 cannot be sustained and is, accordingly, set aside.

13. List on 17.07.2026 before the learned ARC for consideration of objections/ leave to defend application of the Petitioner. Learned ARC is requested to accord consideration as expeditiously as permissible.

14. Accordingly, the present Petition, along with pending



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Application(s), if any, stands disposed of.

**HARISH VAIDYANATHAN SHANKAR, J.**  
**JULY 07, 2026/rk/dj**