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

Date of decision: 07.08.2026

CNR No. DLHC010804312024

+ RC.REV. 330/2024 & CM APPL. 66707/2024 (Stay)

SANTOSH SAINI AND ORSPetitioners

Through: Mr. Debendra Kumar Sabat,
Ms. Sharmila Sabat and Mr.
Amit Kumar Tripathi,
Advocates.

versus

SMT SARITA AND ORSRespondents

Through: Mr. Niraj Chaudhary,
Advocate.

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CNR No. DLHC010804322024

+ RC.REV. 331/2024 & CM APPL. 66808/2024 (Stay)

SANTOSH SAINI AND ORSPetitioners

Through: Mr. Debendra Kumar Sabat,
Ms. Sharmila Sabat and Mr.
Amit Kumar Tripathi,
Advocates.

versus

RAJ KUMAR AND ANRRespondents

Through: Mr. Niraj Chaudhary,
Advocate.

CORAM:

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

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JUDGEMENT (Oral)

1. The present Petitions, filed under Section 25-B(8) of the **Delhi**



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Rent Control Act, 1958¹ read with Sections 115 and 151 of the Code of Civil Procedure, 1908 and Article 227 of the Constitution of India, 1950, challenge two separate **Orders, both dated 20.07.2024²**, passed by the **learned ACJ-cum-CCJ-ARC, South District, Saket Courts, New Delhi³**, in two **separate Eviction Petitions⁴** bearing Nos. RC-ARC/04/2024, titled “Mrs. Santosh Saini & Ors. v. Smt. Sarita & Anr.” and RC-ARC/03/2024, titled “Mrs. Santosh Saini & Ors. v. Sh. Raj Kumar & Anr.”, whereby the applications seeking leave to defend filed by the Respondents herein were allowed.

2. Learned counsel appearing on behalf of the Petitioners submits that the averments made in the Eviction Petitions are sufficient and that there is no requirement for the matter to proceed to trial. He submits that, in the event the matter proceeds to trial, the Petitioners herein would be inconvenienced, since they are senior citizens and have to take care of their respective families. He further submits that, since the Petitioners are senior citizens and also have children who are either married or yet to be married, it would be difficult for them to undergo the rigours of a trial.

3. **Per contra**, learned counsel appearing on behalf of the Respondents would wholeheartedly support the Impugned Orders and submit that the learned ARC has formed a considered opinion upon an evaluation of the pleadings as well as the relevant documents and has arrived at the conclusion after perusing the material placed on record.

ANALYSIS:

4. This Court has heard the learned counsel appearing on behalf of

¹ DRC Act

² Impugned Orders

³ Learned ARC

⁴ Eviction Petitions



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the parties and with their able assistance had the occasion to go through the Impugned Orders herein.

5. 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.

6. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***⁵, ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***⁶, and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***⁷, 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.

7. 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.***⁸, and ***Sanjeev Hiranandani v. Sunny Grover***⁹.

8. 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,

⁵ (1998) 8 SCC 119

⁶ (2014) 9 SCC 78

⁷ (2022) 6 SCC 30

⁸ 2024:DHC:9322

⁹ 2025:DHC:11285



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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.”

9. 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.

10. 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



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arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Orders suffer 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.

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

12. The relevant portion of the Impugned Order passed in RC.REV. 330/2024, whereby the learned ARC has allowed the Respondents' applications seeking leave to defend, is reproduced herein below. The corresponding findings in the Impugned Order passed in RC.REV. 331/2024 are, *mutatis mutandis*, the same:

“19. Petitioner has set up the case for bona fide requirement of tenanted premises to construct a residential premises since the petitioners' family has grown. However, petitioner has not given what portion is to be reconstructed and which portion would be required for bonafide requirement of which petitioner(s). The petitioners in their own reply have stated that they are in possession of various other properties outside and within the locality of the tenanted premises and thus there is sufficient prima facie evidence that alternate accommodation is available. The area of those properties have also stated and same is not anyway less than the area of the property of which tenanted premises is a part. The alternate accommodation thus are not only available but reasonable and suitable. This Court accepts the leave of the respondents on both grounds of alternate accommodation as well as bonafide requirement of petitioners. The same has even been admitted by the petitioners in their reply stating that it is a triable issue about the availability of alternate accommodation.

20. As regards the first issue of landlord-tenant relationship. The



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petitioners have alleged that respondents have no tenancy agreement and are not lawful occupant of the property. The petitioners have contested the claim of respondents that they are tenants. The petitioners alleged that after Sh. Sher Singh expired, the respondents being his legal heirs have never approached the petitioners for tenancy agreement. The respondents on the other hand allege that after Sh. Hari Singh and Smt. Dhallo Devi expired, the petitioners have not approached the respondents for attornment and never served any valid notice for payment of rent or for enhancement. Be that as it may, both sides admit that the opposite sides are legal heirs of the original landlord and original tenant, respectively. Original landlord being Sh. Hari Singh and original tenant being Sh. Sher Singh. The petitioners admit respondents are legal heirs of Sh. Sher Singh and respondents admit that petitioners are legal heirs of Sh. Sher Singh. The property has thus devolved upon the petitioners through succession and on respondents through devolution. It is immaterial if the respondents were paying rent or not, they remain to the respondents. It is true that petitioners failed to serve any notice for payment of rent and at the same time the respondent have not filed any petition for deposit of rent before any rent controller. The petitioners are thus joint landlords and respondents are tenants. As per section 2(l) DRC Act, the respondent no.2 being widow of original tenant Sh. Hari Singh would be the only tenant, however the other respondents allege to be residing in the premises and were dependent on the original tenant. The exact status however is contested and this is also known from the previous two litigation between the same parties pending before this Court on even date. The petitioners are also contesting eviction on ground of Section 14(1) (f), (g) and (j), whereas the respondents have been contesting their petition under Section 44 DRC Act since before.

21. As regards the present case of eviction under Section 14(1)(e) DRC Act, it goes without saying that a landlord may require tenanted premises for expansion of his residence. He is master of his decisions and choices, and the tenant or the Court cannot dictate terms to him. However, need of the landlord is to be determined by examining, evaluating and adjudicating the projected requirements to reach a conclusion that the requirement of the landlord is a genuine need and not merely a desire to evict the tenant so as to deprive the tenant of the statutory protection. The petitioners in their reply to leave to defend admit that there are triable issues as to availability of other properties and requirement of petitioners and their family members.

22. In view of the aforesaid facts and circumstances, respondent has been able to raise triable issues as to what is the actual measurement of premises under possession and ownership of petitioner, what is the extent of land available with him for



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carrying out construction of his house and whether the properties already available is sufficient for meeting his requirements. These issues are required to be answered during trial to test the bona fide need of the petitioner in respect of the tenanted premises, which if decided in favour of the respondent, will lead to dismissal of the petition. Thus, respondent is entitled to the leave of the Court to contest present petition.

23. Accordingly, application is allowed and respondent is granted the leave of the Court to contest the present petition on two grounds of availability of suitable alternate accommodation and requirement of the petitioners being bonafide for their residence. The leave to defend qua landlord tenant relationship is not allowed, since the tenancy is admitted by the respondents.”

13. A perusal of the aforesaid findings of the learned ARC shows that leave to defend has not been granted merely on the basis of bald or unsubstantiated assertions. The learned ARC has identified specific issues arising from the pleadings and material placed on record, particularly with regard to the availability and suitability of alternative accommodation and the extent of the premises available to the Petitioners for carrying out the proposed construction.

14. The principal issue which, therefore, arises for consideration is whether the learned ARC, in arriving at the aforesaid conclusion, has committed any error apparent on the face of the record, material irregularity or perversity warranting interference by this Court in exercise of its limited revisional jurisdiction under the *proviso* to Section 25B(8) of the DRC Act.

15. At the outset, it is required to be borne in mind that at the stage of consideration of an application seeking leave to defend, the Court is not required to conduct a “*mini trial*” as if adjudicating the eviction petition finally. The question is whether the facts disclosed by the tenant, if ultimately established, would disentitle the landlord from obtaining an order of eviction. Where such facts disclose a triable



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issue, leave to defend ought not to be declined.

16. At the same time, the mere assertion of a defence, unsupported by material particulars or evidence, would not by itself be sufficient to compel the landlord to undergo a full-fledged trial. The defence must disclose facts which, if proved, would have a bearing upon the landlord's entitlement to seek eviction. The legislative scheme under Section 25B of the DRC Act is intended to prevent a tenant from prolonging proceedings by raising vague or frivolous defences, while preserving the right to trial where a genuine triable issue is disclosed.

17. In the present case, the learned ARC has found that the Petitioners themselves have disclosed the existence of other properties and have further referred to the extent of such properties. The learned ARC has also recorded a finding that the question whether such properties constitute reasonably suitable alternative accommodation, having regard to the actual requirements of the Petitioners, requires consideration.

18. The aforesaid finding cannot, at this stage, be characterised as perverse or wholly unsupported by the material on record. The availability of another property, by itself, may not invariably defeat a claim of *bona fide* requirement. What is relevant is whether such accommodation is reasonably suitable for the requirement pleaded by the landlord.

19. In the present case, however, the learned ARC has not finally concluded that the alternative properties are, in fact, suitable accommodation disentitling the Petitioners from seeking eviction. Rather, the learned ARC has found that the extent and suitability of the properties disclosed by the Petitioners, as well as the actual area



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available for the proposed construction, give rise to questions which require adjudication. Such an approach, particularly at the stage of considering leave to defend, cannot be said to amount to an erroneous exercise of jurisdiction.

20. Equally significant is the finding of the learned ARC that the Petitioners themselves, in their reply to the applications seeking leave to defend, had acknowledged the existence of triable issues concerning the availability of other properties and their requirement. If the Petitioners have themselves placed material before the learned ARC which gives rise to a factual controversy regarding the availability and suitability of alternative accommodation, they cannot, merely in revisional proceedings, seek a re-appreciation of that material with a view to invite this Court to arrive at a different conclusion.

21. The second aspect which weighed with the learned ARC concerns the *bona fide* requirement pleaded by the Petitioners. The learned ARC has noted that the Petitioners seek eviction for the purpose of expanding their residential accommodation and carrying out construction, but have not specified with sufficient clarity the portion proposed to be reconstructed, the extent of construction contemplated, or the manner in which the proposed construction would cater to the respective requirements of the Petitioners and their family members.

22. The aforesaid aspects are not matters which can be conclusively determined merely by accepting the assertion of the landlord that the premises are required for residential purposes. The *bona fide* requirement pleaded by a landlord is undoubtedly entitled to due



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weight, and the tenant cannot dictate the manner in which the landlord should arrange his affairs. Nevertheless, the statutory requirement of *bona fide* need necessarily entails an examination of whether the requirement pleaded is genuine and whether the statutory conditions for eviction are satisfied.

23. The learned ARC has, therefore, not substituted its own assessment of the Petitioners' residential requirements for that of the landlord. It has merely found that the material placed before it raises questions concerning the extent of the proposed construction, the availability of other properties and the suitability of such properties for the requirement pleaded. These are matters which, if ultimately established in favour of the Respondents, may have a bearing upon the Petitioners' entitlement to an order of eviction.

24. This Court is conscious that the revisional jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act does not permit the Revisional Court to reassess the evidence or substitute its own conclusion merely because another view may be possible.

25. Tested on the aforesaid parameters, this Court finds no such infirmity in the Impugned Orders. The learned ARC has considered the pleadings of the parties, noticed the material concerning the alternative properties and the proposed residential requirement, and thereafter concluded that the Respondents had disclosed triable issues warranting grant of leave to defend.

26. The submission advanced on behalf of the Petitioners that they are senior citizens and that requiring them to undergo a trial would cause inconvenience, cannot by itself furnish a ground for declining leave to defend where the statutory threshold for grant of such leave is



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otherwise satisfied. The age of the landlord cannot dispense with the requirement of examining whether the tenant has disclosed a genuine triable issue under Section 25-B(5) of the DRC Act.

27. It is equally not for this Court, in exercise of its limited revisional jurisdiction, to determine at this stage whether the defence ultimately set up by the Respondents would succeed at trial. The only question is whether the defence raises an issue which requires adjudication upon evidence. Once such an issue is found to exist, the consequence contemplated by the statutory scheme follows.

28. It is also relevant that the leave to defend has not been granted on every ground raised by the Respondents. The learned ARC has specifically confined the grant of leave to defend to the issues concerning the availability of suitable alternative accommodation and the bona fide requirement of the Petitioners. This itself demonstrates that the learned ARC has examined the respective grounds rather than granting leave as a matter of course.

29. The approach adopted by the learned ARC is, therefore, consistent with the limited inquiry contemplated at the stage of an application for leave to defend. The learned ARC has neither finally adjudicated the entitlement of the Petitioners to eviction nor returned a finding that the Respondents' defence must ultimately succeed. It has merely found that the issues identified in the Impugned Orders warrant adjudication after the parties are afforded an opportunity to lead evidence.

30. In view of the foregoing discussion, this Court finds that the Impugned Orders do not suffer from any jurisdictional error, material irregularity, perversity or error apparent on the face of the record



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

31. The present Petitions, being devoid of merit, are dismissed.

32. It is made clear that the findings recorded herein are confined to the question of whether the Respondents were rightly granted leave to defend and shall not be construed as an expression of opinion on the ultimate merits of the rival claims.

33. The present Petitions, along with respective pending Application(s), if any, stand disposed of in aforementioned terms.

34. A photocopy of this Order be placed in the connected matter.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 07, 2026/tk/DJ