



2026:DHC:8857



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.10.2026

CNR No. DLHC010252932026

+ RC.REV. 203/2026 & CM APPL. 37929/2026 (Ex.)

VIJAY KUMAR ARORAPetitioner

Through: Appearance not given

versus

SUBHASH CHAND GUPTARespondent

Through: Mr. J.P. Sengh, Senior
Advocate along with Mr.
Abhishek Singh and
Mrs. Madavaram Priyanka,
Advocates.

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR% JUDGEMENT (Oral)

1. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**¹, assailing the Orders dated 07.06.2022 and 31.01.2023, whereby the applications filed by the Respondent under Order VI Rule 17 of the **Code of Civil Procedure**², 1908 were allowed, as well as the Order dated 19.03.2026 passed by the **learned ACJ-cum-ARC, Central District, Tis Hazari Courts, Delhi**³, in **RC ARC No. 284/2020**⁴, titled "*Vijay Kumar Arora v. Subhash Chand Gupta*", whereby the application seeking leave to defend was allowed.

2. Learned counsel appearing for the Petitioner confines his

¹ DRC Act

² CPC

³ learned ARC

⁴ Eviction Petition

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challenge in the present Petition to the **Order dated 19.03.2026**⁵.

3. He submits that the Petitioner is a senior citizen and that the requirement pleaded by him is in respect of the ground floor of the subject premises, where he seeks to carry on his business. It is his submission that, having regard to the nature of the requirement and the age of the Petitioner, the *bona fide* requirement projected before the learned ARC ought to have been given due consideration.

4. He further submits that the reasoning adopted by the learned ARC while granting leave to defend is contrary to the settled position of law.

5. He submits that the convenience of the tenant cannot be placed above or substituted for the *bona fide* requirement of the landlord and once the landlord is able to establish a *bona fide* need for the premises, a presumption operates in his favour and the tenant cannot seek leave to defend merely by raising an objection as to the manner in which the landlord proposes to utilise the premises or by seeking to substitute his own assessment of the landlord's requirement.

6. No other submissions were advanced on behalf of the Petitioner.

7. **Per contra**, learned senior counsel appearing for the Respondent supports the Impugned Orders and submits that the learned ARC has passed reasoned and well-considered orders after taking into account the various aspects arising from the pleadings and material placed on record.

8. He submits that the learned ARC has examined the requirement projected by the Petitioner as well as the defence raised by the

⁵ Impugned Order



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Respondent and has, upon such consideration, found the matter to warrant grant of leave to defend.

9. He further submits that the findings returned by the learned ARC are neither perverse nor contrary to the material on record. He also contends that, having regard to the limited scope of revisional jurisdiction under Section 25-B(8) of the DRC Act, this Court ought not to substitute its own view for that of the learned ARC, particularly where the Orders challenged in the present Petition disclose due application of mind and do not disclose any jurisdictional or manifest error warranting interference.

10. This Court has heard learned counsel for the parties and, with their able assistance, perused the material on record, including the Impugned Order.

11. 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.

12. 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.

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30



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13. 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.

14. 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 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.”

15. In **Pankaj Pahwa** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in **Abid-Ul-Islam** (supra),

⁹ 2024:DHC:9322



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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.

16. 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 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.

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

18. At the outset, it would be apposite to set out the relevant findings returned by the learned ARC while considering the application seeking leave to defend, particularly those pertaining to

¹⁰ 2025:DHC:11285



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the *bona fide* requirement of the Petitioner and the availability of reasonably suitable alternate accommodation. The relevant paragraphs of the Impugned Order are reproduced hereinbelow:

“Bonafide nature of the requirement disclosed by the petitioner

&

Availability of alternate accommodation with the petitioner

55. These criteria shall be considered together as well. It is a well settled proposition of law that in a petition filed under Section 14 (1) (e) of DRC Act, the bonafide nature of the requirement disclosed by the landlord has to be presumed, and the onus is upon the respondent/tenant to bring on record ‘facts’ within the meaning of Section 25-B(4) of DRC Act to refute this presumption. Reliance at this juncture can be placed upon the seminal pronouncement of Hon’ble Apex Court in *Sarla Ahuja Vs. United India Insurance Co. Ltd.* [(1998) 8 SCC 119]. It shall now be examined if the respondent has been able to bring on record any such ‘facts’ within the meaning of Section 25-B(4) to refute the presumption which arises in favour of the petitioner.

56. Bonafide requirement disclosed by the petitioner in the present petition is that the entire tenanted premises are required for bonafide commercial use for running business of lehenga, saree and dress material at the ground floor of the property. The petitioner and his wife are doing business of textiles in such items for last 25 years at the first and third floor and the respondent is running similar and competitive business from the ground floor of the tenanted premises owned by the petitioner and petitioner despite being the owner of the ground floor, is running business from first to third floor.

57. It is further the case of the petitioner that he does not have any shop of the same location and size at the ground floor as the entire tenanted premises and considering his age and ailments, it is difficult for him to work at the upper storey and the location being at Nai Sadak at Delhi, is the best suitable for running the type of business being carried out by the petitioner. It is further his case that the entire tenanted premises are required for sons of the petitioner as the younger one is not settled and he does not have any other place to work and the premises are also required for expansion of business to settle the sons of the petitioner and for display of goods at the ground floor.

58. The bonafide need of the petitioner is vehemently opposed on behalf of the respondent by alleging that such need of the petitioner

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is malafide as the entire intention of the petitioner is to eliminate competition as both the parties are carrying out the same business. It is also the case of the respondent that despite having alternate properties in the building in question as well as nearby the entire tenanted premises, the petitioner has chosen to not utilize the same for the alleged need which shows that his need is not genuine.

59. It is the consistent case of the petitioner that he does not have any other alternate or suitable property, especially at the ground floor for carrying out the alleged business expansion, whereas the respondent has pointed out to the properties available to the petitioner on the ground floor adjacent to the tenanted premises as well as another property bearing no. 1518, First to Third Floor, Nai Sadak, Delhi-110006, which has been let out by the wife of the petitioner during the subsistence of the present eviction petition for a hefty rent of Rs.3,50,000/- per month for the same kind of business. Needless to say that the other properties referred by the applicant have been shown to be sold by the petitioner in his reply and no factual dispute has arisen over such properties.

60. It is trite that the questions of reasonability and suitability of the alternate accommodation as well as whether the bonafides in the alleged need of the petitioner, appears to be genuine or not, are essentially questions of fact. Such facts are required to be decided by the Court by examining the tenability of the pleas raised by both the parties and not by believing one set of affidavit over the other. Such reasonability and suitability has to be ascertained from the lens of a prudent man in the background of the factual scenario of the case at hand.

61. The Controller is required to confine the inquiry in the application seeking leave to defend to ascertain whether the affidavit filed by the tenant has disclosed any tenable ground which casts a doubt regarding the bonafide need or availability of alternate accommodation. In case of such a doubt, a trial is necessitated as per the mandate of Section 25-B of the DRC Act and it is not required to be seen at this stage whether such doubt raised by the tenant, will be successfully proved during the trial or not. If there is any disputed question of fact revealed from careful perusal of rival affidavits, which is essential to be adjudicated, then such fact must be decided at the trial and not summarily.

62. The need expressed by the landlord in the eviction petition must be genuine, sincere and bonafide and not far fetched or based on his whims and fancies. The need expressed must not be fanciful or whimsical and if the tenant creates any doubt in his application

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upon the genuineness of such need expressed by the landlord, ordinarily the Court must grant leave to contest the case. When the genuineness of the need expressed by the landlord or availability of alternate accommodation, appears to be doubtful in light of the facts brought on record by the tenant, the Controller is expected to defer such issues of facts and afford an opportunity to the parties to contest the case after establishing the factual dispute on the touchstone of evidence.

63. The respondent has laid much emphasis on the fact that the alternate property bearing no. 1518, First to Third Floor, Nai Sadak, Delhi-110006, admittedly located at a distance of 60 meters from the entire tenanted premises, has been let out by wife of the petitioner to one Mr. Sajid w.e.f. 01.01.2023 for a period of three years. It is not in dispute that such tenant of the petitioner's wife is carrying out the same business of lehenga, saree from such premises and that the rent of the said property was Rs. 3,50,000/- for the first twelve months and Rs.4,23,500/- for the year 2025. The petitioner has not disputed such factual position and has dismissed such argument of the tenant by alleging this property is not alternate or suitable as requirement of the petitioner is of only ground floor and not of a higher floor. It is also the case of the petitioner that an attempt was made by his wife to carry business from such property but the same was found to be impracticable and unworkable as it is difficult to have disjointed business premises.

64. It is an admitted position on record and quite apparent from the pleadings of the petitioner that the petitioner and his wife including his sons are carrying out the very same business from the building in question except the entire tenanted premises. It is also not disputed that the entire family is running a business together as one unit and hence, this Court does not find any merit in the argument on behalf of petitioner that the property owned by wife of the petitioner cannot be construed as alternate to the tenanted premises. Reliance made by the petitioner on the observations of Hon'ble High Court of Delhi in Shashi Bala Gupta Vs. Manish Gupta [MANU/DE/3615/2022] in this regard is found to be misplaced as in such case, the alleged alternate property was owned by father of the landlord and due to marital discord, the landlord therein was forced to sever his ties with his family and parents since several years.

65. The test is whether such premises are legally and practically available to the petitioner for use, and whether the same are reasonably suitable to satisfy the specific requirement pleaded in the eviction petition. In the present case, it is rather an admitted

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position of the petitioner himself that he and his wife wants to expand the business together as they are both indulged in the same very business and they want to expand it for further growth for the family.

66. It cannot be ignored that such property bearing no. 1518, Nai Sadak, Delhi-110006 consists of not a small area but three floors of 55 sq yards and it is much bigger in size than the entire tenanted premises. The said property is located at a stone's throw distance from the entire tenanted premises as it is an admitted position of the petitioner that the said property is located merely 60 meters away from the property in question. It is an admitted case of the petitioner himself that entire Nai Sadak is a hub of such businesses of lehengas and sarees and similar garments not only in India but in Asia. Even otherwise, interestingly, the tenant put in place by petitioner's wife in such property is also carrying out the very same business as that of the parties herein.

67. In these circumstances, it prima facie appears that such property may or may not be suitable for expansion of the petitioner's business or for settling his sons and the same is an issue which merits a trial. This is especially so as the tenant in such property was admittedly inducted during the pendency of the present petition for a period of three years at a hefty rent of Rs.3,50,000/- per month which was increased to Rs.4,23,500/- for the year 2025. Furthermore, bare perusal of the registered lease deed dated 06.01.2023 with regard to such property reflects that petitioner himself was a witness in such lease deed which shows that execution of such lease deed was well within the knowledge of the petitioner and this circumstance raises a question which requires a trial. In view of the rival contentions, the question whether the said premises constitute a reasonably suitable alternative accommodation involves disputed questions of fact, which cannot be conclusively adjudicated without evidence and thus, gives rise to a triable issue.

68. Another essential aspect of the case is that it is petitioner's consistent argument that landlord is the best judge of his needs and ground floor is always construed as most suitable for the business needs of the landlord. To buttress such submissions, petitioner has also placed reliance upon several observations of the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India in Khanna Jewellers Vs. Kapil Tandon [MANU/DE/0038/2021], Anil Bajaj Vs. Vinod Ahuja [AIR 2014 SC 2294], MC Goyal Vs. Sardar Singh [MANU/DE/0276/2015] and Kanwal Kishore Nagpal Vs. Brahm Dev Sharma [2023:DHC:2077]. However, the factual situation in all such cases is quite different from the present one

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and it is well settled that the question of reasonability, suitability and bonafides are questions of fact and every case has to be determined on the basis of its peculiar circumstances.

69. The proposition that ground floor is always a reasonable accommodation than the upper floor, is not an absolute proposition or a straight-jacket rule in every factual situation. In Khanna Jewellers (supra), the alleged alternate accommodation disclosed by the tenant were let out by the landlord much prior to eviction petition. In Anil Bajaj (supra), the landlord was already carrying out his business from the other properties available disclosed by tenant. In MC Goyal (supra), the alleged alternate shop on the ground floor was sold long time back by the landlord. In Kanwal Kishore Nagpal (supra), the alleged alternate accommodation at the first floor of the shop in question was reserved for personal use of the respondent and his family. Hence, none of such cases cited by the petitioner are applicable to the circumstances herein and are clearly distinguishable.

70. It is settled that mere denial by a landlord of a particular premises as not reasonably suitable, cannot be a sole ground for determining a reasonable suitable accommodation and it has to be ascertained from a lens of a commons person's prudence. It has been inter-alia observed by the Hon'ble High Court of Delhi in Khem Chand & Ors. vs Arjun Jain & Ors. [2013 SCC OnLine Del 3648] that there cannot be any straight jacket formula to determine what can be reasonably suitable accommodation and further that the proposition that the ground floor is a reasonable accommodation over the first and other floors, cannot be an absolute proposition. The relevant portion of such observations are reproduced below :

“32. In view of the above discussion, it is clear that there cannot be any straight jacket formula to determine what can be reasonably suitable accommodation available with the landlord and it cannot be certainly only depends upon the demands of the landlord. Therefore, one cannot really say that one proposition which may hold good in one case can be equally applied to another case with equal strength without seeing the difference in the facts of the case. Where there is a doubtful case whether a particular accommodation can or cannot act as reasonably suitable accommodation in such cases too, the Court seized of the eviction proceedings should postpone the decision making of reasonableness and suitability of accommodation as a fact finding to the trial, rather than to evict the tenant by granting the leave to defend.

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33. As I have discussed above that the reasonableness and suitability of the accommodation is a question of fact and has to be seen on case to case basis, therefore the proposition that the ground floor is always a reasonable accommodation than the first floor or the basement cannot be an absolute proposition. This has to be seen on case to case basis as to in which case a basement is not reasonable accommodation available with the landlord and thus ground floor is required and in which case the first floor can act as a reasonable accommodation.

.....

.....

35. It is well settled principle of law that the judgments are precedent of the statement of law laid down therein which is called as ratio decidendi and not the finding of the fact arrived by the Court. Thus, the proposition that the ground floor is always advantageous than any other floor no matter what floor it is, where it is located and what is the prevailing conditions in the area are as to conduct of the business cannot be an absolute proposition of law and cannot be said to be a precedent in each case to negate the argument of the reasonableness and suitability of the accommodation particularly when the application for leave to defend is being considered. At this stage the Court is to see whether averments in the affidavit in support of application for leave to defend discloses facts which need investigation by evidence and trial, the leave to defend normally should not to be refused.”

71. It is an admitted position between the parties that the alleged alternate property is situated at the same location merely few meters away from the tenanted property and the very same business as that of the landlord, is being successfully run from such property. Such letting by the wife of the petitioner was indeed done during the subsistence of the present eviction petition which is a circumstance which casts a shadow of doubt over the genuineness in the claims raised by the petitioner and an opportunity must be given to the landlord to clear such doubts during trial. Therefore, whether upper floor premises available with the petitioner or his family members can be considered reasonably suitable alternatives is a matter requiring evidence, and cannot be conclusively determined at this stage. Here, certain observations of the Khem Chand (supra) are relevant to be noted which are set out below:

“39. It is true that there are other cases where in the appropriate facts the courts have held that the landlord is the best judge to decide his convenience. The said are the

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line of the cases where the landlord is put to the extreme hardship by tenant's insistence that he should adjust to inconvenient premises by squeezing his needs. The facts of the present case are entirely different where the landlord is enjoying the property with in the same location though as a tenant coupled with another property lying vacant within the same location though on the different floor owned by the landlord himself where the business can be carried out as per the market conditions and thereafter the landlord is seeking to vacate the third property in the same location on the basis of bonafide need and non availability of the alternative accommodation which raises the doubt on the need of the landlord as not felt need but fanciful desire. Thus, there exist considerable doubts as to the bonafides of the need of the respondent at this stage of deciding the leave to defend application warranting trial.

40. It is not the thumb rule that in every case the landlord always is the best judge and the Court is helpless by not scrutinizing the stand of the tenant while testing the reasonableness and suitability of the alternative accommodation. Actually it depends upon the case to case basis. The courts have otherwise also held consistently that even though the landlord is the best judge to decide his needs and he cannot be compelled by the tenant to accommodate at the place which is lesser in any way than the place which is sought to be evicted, still the Court would examine the reasonableness and suitability of the existing accommodation by weighing what is available with the landlord vis-a-vis the plea of the tenant.”

72. Respondent has filed several documents alongwith his application which per se reflect that business of similar nature as that of petitioner i.e., sarees, lehengas, etc. are being successfully carried out from the upper floors of the location where the tenanted premises as well as the alleged alternate property is located. Such position is not disputed on behalf of the petitioner and rather, it is the petitioner's admitted case that the locality in question is a hub of such business from where many similar businesses are being carried out successfully.

73. It is not a case where the petitioner/landlord is not in possession of any portion at the ground floor where the tenanted premises are situated. Rather, it is an admitted position that the petitioner is the owner and in occupation of most shops on the ground floor except the tenanted premises A and tenanted premises B. The petitioner has alleged that he is in possession of only a small portion at the

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ground floor, whereas the respondent has disputed the same and alleged that petitioner has deliberately filed an improper site plan to show that the space available with him is small. The respondent, on the other hand, has filed his own site plan showing ground floor till fourth floor and it is his case that the site plan relied upon by him depicts the tenanted premises properly and his site plan also corresponds to the site plan of the registered sale deed dated 08.01.1998 in favour of petitioner's predecessor.

74. A careful perusal of the site plan filed by the petitioner and that of respondent shows that there is no dispute regarding tenanted premises A bearing shop no. 1459, being situated on the backside and tenanted premises B bearing shop no. 1475, being situated on the front side. However, there are several other factual disputes which emerge from bare comparison of the site plan filed by both the sides.

75. There appears to be great difference in the shape, size and extent of tenanted premises and adjoining areas upon careful analysis of both the site plans. Though in the site plan filed by the petitioner, it appears that the space available to him in shop no. 1476 is smaller than the tenanted premises B located towards the main road, the situation is completely different upon a glance at the site plan relied upon by the respondent.

76. Furthermore, it is very essential to note that as per the case of the petitioner, the space between two shops situated on the backside towards Gali Chhipiyan on the eastern and western side, is not part of the tenanted premises let out to the respondent. Whereas, in the site plan relied upon by the respondent, the entire space between both such shops including the store therein on the backside abutting the Gali Chhipiyan forms part of the tenanted premises let out to the respondent.

77. At this stage, the Court is not required to adjudicate upon the correctness of either site plan or to prefer one version over the other, as such determination would necessarily require evidence. In these circumstances, the extent of the actual premises let out to the respondent and availability of existing space with the landlord appears to be a disputed questions of fact which cannot be ascertained without appreciation of evidence, unless the application is allowed.

78. It is not a case where the entire tenanted premises are required by the petitioner as no space at all is available to the landlord on the ground floor. It is also not the case of the petitioner that after taking over possession of the entire tenanted premises, the business

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shall only be carried out from the ground and not from the upper floor for convenience of the petitioner. It is not in dispute that the petitioner does have the access and availability of several portions of the ground floor including the shop no. 1476. Hence, whether the existing accommodation available with the petitioner is reasonably adequate and suitable is a matter which cannot be conclusively determined without evidence, and thus raises a triable issue in the peculiar circumstances of the present case.

79. It is well settled that the requirement alleged by the landlord in order to qualify as a bonafide requirement, the same must be a real need and not a mere wish or fanciful desire. Such a need must be genuine, honest and sincere and if there is any doubt over such need, the same shall be decided after evidence is led by the parties. In this regard, certain recent observations of the Hon'ble Delhi High Court in Tek Chand Vs. Meenakshi Gupta [(2025) SCC OnLine Del 6417] are relevant to be reproduced and are set out below:

“22. While the landlady was/is the best judge of her needs, it is also well-settled that in order to avail the benefit under Section 14(1) (e) of the Act, the requirement urged by the landlady, in order to qualify as bona fide, must be proven to be a real requirement and not a mere wish or a fanciful desire, as also must be genuine, honest, sincere and devoid of deceit and falsehood, for which reliance has correctly been placed on the decisions of the Hon'ble Supreme Court in Sarvate T.B. (supra), Mattulal (supra) and Shiv Sarup (supra) by Mr. Ajay Kohli, learned counsel for the tenant. In fact, reference may further be made to the law laid down by the Hon'ble Supreme Court in Dattatraya Laxman Kamble v. Abdul Rasul Moulali Kotkunde wherein it has been categorically held that the Act itself places the burden on the landlord to show that he has a bona fide requirement which can only be satisfied through the subject premises, and should the Court feel any doubt qua the genuineness of the same, it is for the landlord to clear all such doubts.

23. In the facts and circumstances of the present case, whence the onus was upon the landlady in light of the letting out of the adjacent premises, and there was a doubt on the bona fide requirement by her, especially whence the application for leave to defend of the tenant was allowed by the learned ARC vide order dated 21.01.2020, as also whence it was the consistent case of the tenant at every single stage until trial that the falsehood in the eviction

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petition negated the bona fides of the landlady, the glaring omission of adjudication thereon, and rendering of findings on bona fide requirement simply on a presumption in favour of the landlady without consideration of the material on record by the learned ARC was wholly perverse and impermissible in the considered opinion of this Court.

80. From careful perusal of the pleadings of the landlord in the present case, it appears that the primary need expressed for the tenanted premises is for expansion of business of the petitioner which is already being carried out from the adjacent shop and all the floors above the tenanted premises, by the entire family. The business in question of the landlord is controlled jointly and prima facie petitioner has right and access of usage over the wife's properties. In these circumstances, such alleged need of the petitioner prima-facie raises a contention that it may be a case of additional accommodation, which is a triable issue. In similar factual scenario, where the landlord was in possession of back portion of the shop and wanted the front portion to expand his business, the Hon'ble Delhi High Court in Sunil Kumar Jain Vs. Dinesh Bhatia [(2024) SCC OnLine Del 7160], held such need of the landlord to be that of an additional requirement and accordingly, leave to defend was allowed in favour of the tenant. Such observations of the Hon'ble Delhi High Court are hereby reproduced below:

“13.4 The respondent in present case is already in possession of one shop at ground floor and one shop at first floor of the property and the respondent is seeking eviction of tenanted shop for expansion of his business of readymade garments as shop under possession of the respondent is situated on back portion of the property and is not suitable to the respondent. It is apparent that the respondent is seeking additional accommodation for expansion of business as narrated in eviction petition then the leave to defend ought to be granted to the petitioner. It is also pertinent to mention here that the trial Court in eviction petition bearing no. 575/2016 in respect of eviction of two shops situated on first floor of the property has granted the leave to defend to the petitioner by observing that it is case of additional accommodation. It was also observed that it is settled law that in case of additional accommodation available the reasonability and suitability of the accommodation needs to be tested and it has raised a triable issue for which leave to defend is granted to the respondent. It may be true that under given facts and circumstances of case, the respondent would not be having sufficient accommodation for expansion of his

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business as pleaded in eviction petition but again requirement of the respondent for additional requirement which has to be examined in wider perspective by way of evidence. It may not be correct that in every case of requirement of additional accommodation, leave to defend has to be granted as argued by learned Senior Counsel for the respondent and grant of leave to defend in case of additional requirement depends on facts and circumstances of each individual case. However, in present case, the respondent is seeking eviction of the petitioner from tenanted shop for expansion of his own business and for expansion of business he needs additional accommodation. It is not case of the respondent that he wants possession of tenanted shop for business to be started by or for any other family member but the respondent only desires to expand his own business. The arguments advanced by the learned Senior Counsel for respondent cannot be accepted and does not provide much assistance and help to the respondent. The learned Senior Counsel for the petitioner rightly argued that requirement of the respondent qua the tenanted shop pertains to additional requirement. The petitioner in present petition has raised triable issue as eviction of the petitioner from tenanted premises relates to demand of additional accommodation. The trial Court has failed to consider that present eviction petition pertains to additional requirement while considering bona fide requirement of the respondent in respect of tenanted shop.”

81. At this stage, it cannot be conclusively held whether the requirement of petitioner is purely for additional accommodation or is necessitated by insufficiency of the existing premises. This circumstance, per se, raises a triable issue. The Court cannot lose sight of the fact that the tenancy was created by the petitioner’s wife in the other commercial property located practically at a stone’s throw distance and on the same road as the tenanted property, while during the subsistence of the alleged bonafide need. In these circumstances, certain observations of the Hon’ble Supreme Court of India in Amarjit Singh v. Khatoon Quamarain [(1986) 4 SCC 736] are important to be noticed where such conduct of the landlord dis-entitled from an order of eviction. The observations are set out below:

“21. Shri Kacker submitted that this section should be read literally and we should ask ourselves the question today whether can it be said that the landlady had reasonably suitable other accommodation. We are unable to read it in that sense. If the landlady or the landlord could have reasonable accommodation after his or her need arose and she by her own conduct dis-entitled



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herself to that property by letting it out for higher income, she would be disentitled to evict her tenant on ground of her need. The philosophy and principle of rent restriction law have nothing to do with the private exploitation of property by the owners of the property in derogation of the tenant's need of protection from eviction in a society of shortage of accommodation.”

82. It is trite that when the need of the landlord is commercial in nature and the tenant is also carrying out commercial activities from the tenanted premises then availability of similar accommodation at similar location or equivalent place and operation of similar business by other persons in the area are relevant factors for determining the suitability and reasonability. The respondent / tenant has raised a contention with material that there are many businesses which are same as that of petitioner being run from the upper floors on the same road itself. Upon objectively testing the need of the petitioner as against the accommodation available with him and considering the factors brought on record by the tenant, there appears to be a doubt as regards the bonafide need of the landlord and if not so, at least a doubt regarding the reasonable and suitable accommodation available to the petitioner, has been raised, which merits a trial.

83. If the need of the petitioner is objectively considered from the lens of a prudent man, the availability of three different floors on the very same road which could have easily assisted the petitioner and his wife in expanding the business for the welfare of sons and the family, prima-facie appears to be a relevant consideration. The effect of such letting, and whether the same undermines the bonafide requirement of the petitioner, cannot be conclusively determined at this stage and would depend upon appreciation of evidence and hence, is a triable issue.

84. The scope of inquiry in the present application cannot be expanded to ascertain whether if the leave is granted then the tenant would succeed or not. Even where a tenant is able to raise a tenable plea which may succeed on trial, it is sufficient to allow the application in his favour. Thus, the Court is not inclined to adopt the summary procedure to evict the tenant at this stage in light of the aforesaid tenable pleas raised by the applicant/respondent.

85. As regards the allegation of the applicant/respondent regarding non-maintainability of the present composite eviction petition for two separate tenanted premises bearing separate municipal numbers, the said argument appears to be bereft of any merit. The respondent himself admits that the partition wall between both premises was removed and the premises were merged into one hall,

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functioning as a single unit. In such circumstances, the filing of a composite petition is legally permissible, as the cause of action arises from a common tenancy relationship and a common requirement. The reliance on Order II Rule 3 CPC is appropriate here, since the questions of law and fact are intertwined and pertain to the same landlordtenant relationship. The earlier filing of separate petitions under different grounds does not bar the present composite petition under Section 14(1)(e) of the DRC Act, which is based on bona fide requirement. The Hon'ble Delhi High Court has specifically held that such a petition would be maintainable in JS Sharma Vs. Devi Meena [MANU/DE/0205/2021] and such contention of the tenant does not merit any further discussion as no triable issue is raised in this regard.

CONCLUSION:

86. In view of the aforesaid facts and circumstances, in the considered opinion of this Court, the respondent has successfully raised triable issues which would require a trial and hence, leave to defend the present eviction petition must be granted to the respondent.

87. All in all, it is seen that respondent has been able to raise triable issues qua the bonafide requirement of the petitioner as well as alternate reasonable suitable accommodation available with the petitioner. As such, respondent is granted leave to contest the eviction petition on merits.”

19. A perusal of the aforesaid findings makes it evident that the learned ARC has not rejected the *bona fide* requirement of the Petitioner outright. The learned ARC has, rather, found that the material placed on record by the Respondent raises a doubt regarding the *bona fide* nature of the requirement and, in any event, raises a triable issue with respect to the availability and suitability of alternate accommodation and forms the basis for grant of leave to defend.

20. The principal contention of the learned counsel for the Petitioner is that the learned ARC has erred in not accepting the Petitioner's assertion that the ground floor is more suitable for carrying on his business and that the tenant cannot dictate to the



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landlord the manner in which the premises ought to be utilised. This submission, however, does not, by itself, disclose any infirmity in the Impugned Order.

21. The learned ARC has, in fact, noticed the aforesaid principle. The Impugned Order records that it is not for the tenant to dictate to the landlord as to how his property should be utilised and that the landlord is ordinarily the best judge of his requirements. However, the learned ARC has also correctly proceeded to examine whether, in the facts of the present case, the material placed by the Respondent raises a triable issue regarding the suitability of the alternate accommodation.

22. In this regard, the learned ARC has taken note of the fact that the Petitioner and his family are admittedly carrying on the same business from the building in question and from other properties in the vicinity. More significantly, the learned ARC has noticed that, during the pendency of the present eviction proceedings, the Petitioner's wife let out the property bearing No. 1518, Nai Sadak, to a third party for carrying on the very same business of lehengas and sarees. The said property was stated to be situated approximately 60 metres from the tenanted premises, and these facts were not disputed by the Petitioner.

23. Further, the learned ARC has also noticed that the aforesaid property comprises three floors and is larger than the entire tenanted premises and that the tenant inducted therein is carrying on the same business as that of the parties herein. The learned ARC has, therefore, not conclusively held that the said premises constitute suitable alternate accommodation; rather, it has held that whether the said accommodation is reasonably suitable is a disputed question requiring



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evidence.

24. This Court is of the view that the aforesaid approach adopted by the learned ARC cannot be said to suffer from any jurisdictional error or perversity. At the stage of consideration of an application seeking leave to defend, the learned ARC was not required to conclusively determine whether the alternate premises were, in fact, suitable for the Petitioner. The question was whether the material placed by the Respondent raised a triable issue requiring adjudication upon evidence.

25. The distinction assumes significance. The learned ARC has not substituted the convenience of the Respondent for that of the Petitioner, nor has it directed the Petitioner to carry on his business from a particular premises. It has only found that, in view of the facts brought on record, including the subsequent letting of a substantial commercial property in the same locality for the very same business, a doubt arises which cannot be conclusively resolved at the stage of leave to defend.

26. The contention that the ground floor is inherently more suitable for commercial activity also cannot be treated as an absolute proposition divorced from the factual circumstances of the case. The learned ARC has specifically considered the authorities relied upon by the Petitioner and has found them distinguishable on facts, and has thereafter concluded that the question of reasonableness and suitability of alternate accommodation is essentially factual and, where a genuine dispute arises on such issue, the same would require adjudication upon evidence.

27. Similarly, the fact that the Petitioner is a senior citizen and has

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projected certain difficulties in carrying on his business from the upper floors cannot, by itself, foreclose an inquiry into the availability of alternate accommodation.

28. These circumstances may undoubtedly form part of the consideration at trial; however, the learned ARC was required to assess whether the defence raised by the Respondent disclosed facts which, if proved, could disentitle the Petitioner from obtaining an order of eviction. The learned ARC has found that such a triable issue exists.

29. This Court also finds significance in the fact that the learned ARC has noticed a further factual dispute as to the extent of the accommodation actually available with the Petitioner on the ground floor. The rival site plans were found to materially differ with respect to the shape, size and extent of the premises and adjoining areas and has, therefore, correctly refrained from conclusively adjudicating upon the competing site plans at the stage of leave to defend.

30. The learned ARC has ultimately recorded a finding that the Respondent has raised triable issues both with respect to the *bona fide* requirement of the Petitioner and the availability of reasonably suitable alternate accommodation. This finding is founded upon the material placed before the learned ARC and is not shown to be based upon any irrelevant consideration or an erroneous proposition of law.

31. In these circumstances, the grievance of the Petitioner essentially seeks a re-appreciation of the material on record and a substitution of the conclusion arrived at by the learned ARC with a conclusion favourable to the Petitioner. Such an exercise is clearly beyond the permissible scope of jurisdiction under the *proviso* to



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Section 25B(8) of the DRC Act.

32. This Court, therefore, finds no jurisdictional error, perversity, manifest illegality or material irregularity in the Impugned Order which would warrant interference in exercise of the limited revisional jurisdiction of this Court.

33. In view thereof, there is no merit in the present Petition, and consequently, the Impugned Order does not call for any interference.

34. Accordingly, the present Petition, along with the pending application(s), if any, stands dismissed.

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

HARISH VAIDYANATHAN SHANKAR, J.
OCTOBER 7, 2026/rk/jk

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