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

Date of decision: 08.09.2026

CNR No. DLHC010419692019

+ **RC.REV. 599/2019 & CM APPL. 46014/2019**

DROPADI DEVI

.....Petitioner

Through: **Mr. Anil Singal, Ms. Nandita
Sharma and Mr. Kishor Kumar,
Advocates.**

versus

VIJAY KUMAR (DECEASED) THR LRSRespondents

Through: **Mr. D.V. Goyal, Advocate.**

CORAM:

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

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JUDGEMENT (Oral)

1. The present Revision Petition, filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958¹** assails the **Order dated 09.09.2019²** passed by the **learned ACJ-cum-ARC, Central District, Tis Hazari Courts, Delhi³**.

2. By way of the Impugned Order, the learned ARC has allowed an application filed by the Respondents under Section 25 of the DRC Act in **Execution Petition No. 97292/2016⁴**, arising out of the eviction proceedings titled *Smt. Dropadi Devi @ Dropati Devi v. Sh. Vijay Kumar & Anr.*, and has directed restoration of possession of the subject premises to the legal heirs of deceased Respondent No.1/JD No.1.

¹ DRC Act

² Impugned Order

³ learned ARC

⁴ Execution Petition



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3. Learned counsel appearing on behalf of the Petitioner submits that the Impugned Order is manifestly erroneous inasmuch as the learned ARC has proceeded on the basis that Respondents No.1 and 2 were tenants-in-common, without there being any material on record to support such a conclusion.

4. He submits that the finding contained in paragraph no. 7 of the Impugned Order, which forms the basis for the ultimate conclusion arrived at by the learned ARC, is unsupported by any tenancy agreement or other document. Paragraph No. 7 of the Impugned Order reads as under:

“7. It is a matter of record that respondents no. 1 & 2/ JDs No.1 & 2 had not inherited the tenancy in question from a common ancestor, rather they both entered into tenancy agreement with landlord/ petitioner/ DH, hence they were the tenants in common, thus their interest were differently held and each one of them had different share over the tenancy. Thus, both were having independent equal rights qua the premises. Hence, applicants (the legal heirs of deceased respondent no.1/ JD No.1) should have been impleaded as parties to the eviction petition as representing the estate of deceased respondent no.1/ JD No.1 which has not been done by petitioner/ DH. Accordingly, the eviction order obtained qua the suit premises is nullity in law against legal heirs of deceased respondent no.1/ JD No.1 and hence not binding on them. In this view of the matter, the objections filed in the present application are sustainable in law, it is held that applicants are having independent right (independent from the rights of respondent no.2/ JD No.2) and title in the premises in dispute and therefore, they were not liable to be dispossessed in execution of the eviction order against respondent no.2/ JD No.2. Since petitioner/ DH has already obtained the possession of the premises, hence she is directed to restore back the possession of the premises in dispute to applicants as the act of Court should prejudice no one. Hence, the present application is hereby allowed.”

5. **Per contra**, learned counsel appearing on behalf of the Respondents submits that the legal heirs of deceased Respondent No.1/JD No.1 had an independent interest in the tenancy and were



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necessary parties to the original eviction proceedings.

6. He submits that the tenancy was one in common and not a joint tenancy and, consequently, the eviction order obtained in the absence of the legal heirs could not operate against them.

7. No other arguments were advanced by the parties.

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

9. 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.

10. 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.

11. 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.

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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12. In ***Abid-Ul-Islam***(supra), the Hon’ble Supreme Court, while elucidating the legislative intendment underlying Section 25B of the DRC Act, observed that the omission of an appellate remedy against an Order passed by the learned Rent Controller is conscious and deliberate. The jurisdiction conferred upon the High Court is, therefore, one of superintendence over the decision-making process, including the legality and propriety thereof, and does not permit the 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.”

13. 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



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Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

14. 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.

15. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioner against the Impugned Order are required to be examined.

16. This Court takes note of the consideration accorded by the learned ARC to the Application under Section 25 of the DRC Act, which reads as under:

“6. To decide the present application, it would be worthy to discuss the two capacities, viz., tenancy-in-common and joint tenancy, and the rights that one holds in these two different capacities :-

(a) Fundamentally, the concepts of joint tenancy and tenancy-in-common are different and distinct in form and substance. The incidents regarding the co-tenancy and joint tenancy are different : joint tenants have unity of title, unity of commencement of title, unity of interest, unity of equal shares in the joint estate, unity of possession and right of survivorship.

(b) Tenancy-in-common is a different concept. There is unity of



possession but no unity of title, i.e. the interests are differently held and each co-tenant has different shares over the estate. Thus, the tenancy rights, being proprietary rights, by applying the principle of inheritance, the shares of heirs are different and ownership of leasehold rights would be confined to the respective shares of each heir and none will have title to the entire leasehold property. Therefore, the estate shall be divided among the co-tenants and each tenant in common has an estate in the whole of single tenancy. Consequently, the privity exists between the landlord and the tenant in common in respect of such estate.

7. It is a matter of record that respondents no. 1 & 2/ JDs No. 1 & 2 had not inherited the tenancy in question from a common ancestor, rather they both entered into tenancy agreement with landlord/ petitioner/ DH, hence they were the tenants in common, thus their interest were differently held and each one of them had different share over the tenancy. Thus, both were having independent equal rights qua the premises. Hence, applicants (the legal heirs of deceased respondent no.1/ JD No. 1) should have been impleaded as parties to the eviction petition as representing the estate of deceased respondent no.1/ JD No.1 which has not been done by petitioner/ DH. Accordingly, the eviction order obtained qua the suit premises is nullity in law against legal heirs of deceased respondent no.1/ JD No.1 and hence not binding on them. In this view of the matter, the objections filed in the present application are sustainable in law, it is held that applicants are having independent right (independent from the rights of respondent no.2/ JD No.2) and title in the premises in dispute and therefore, they were not liable to be dispossessed in execution of the eviction order against respondent no.2/ JD No.2. Since petitioner/ DH has already obtained the possession of the premises, hence she is directed to restore back the possession of the premises in dispute to applicants as the act of Court should prejudice no one. Hence, the present application is hereby allowed.”

17. It is noted that the learned ARC has, in the Impugned Order, noticed the distinction between a joint tenancy and a tenancy-in-common. Having done so, the learned ARC has proceeded to hold that Respondents No.1 and 2 were tenants-in-common on the premise that they had independently entered into the tenancy with the Petitioner.

18. The learned ARC has thereafter concluded that the legal heirs of deceased Respondent No.1 ought to have been impleaded in the



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eviction proceedings and that the eviction order was, therefore, not binding upon them.

19. The difficulty, however, is that the aforesaid finding as to the nature of the tenancy is not supported by any material referred to in the Impugned Order. No tenancy agreement or other document has been identified on the basis of which it could be concluded that Respondents No.1 and 2 had independently entered into the tenancy or that they held separate and distinct interests therein.

20. The distinction between a joint tenancy and a tenancy-in-common, by itself, does not determine the character of the tenancy between the parties. The finding as to the nature of the tenancy necessarily has to be founded upon the material governing the creation and holding of the tenancy.

21. Therefore, the significance of this omission cannot be understated. The entire conclusion of the learned ARC that the legal heirs of deceased Respondent No.1 were necessary parties to the eviction proceedings proceeds from the finding that the tenancy was one in common. Thus, the foundational finding regarding the nature of the tenancy is required to be supported by the material on record. Admittedly, there is no such document which forms the basis of the finding by the learned ARC. This Court, with the assistance of the learned counsel for the parties attempted to trace the source of this factual determination and has been unsuccessful in finding its basis.

22. In the present case, however, the learned ARC has proceeded from the general distinction between the two forms of tenancy directly to the factual conclusion that the Respondents were tenants-in-common, without disclosing the material on which such conclusion



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was founded.

23. This Court is conscious of the limited nature of its revisional jurisdiction. The present case, however, does not involve a re-appreciation of the evidence or substitution of one possible factual view for another. The defect is apparent from the Impugned Order itself. The finding which forms the foundation of the ultimate conclusion has not been supported by any identified document or material.

24. In such circumstances, the decision-making process adopted by the learned ARC cannot be sustained. The consequential finding that the legal heirs of deceased Respondent No.1 were not bound by the eviction order and were entitled to restoration of possession, therefore, also cannot survive.

25. In view of the above, the present Petition is allowed, and the Impugned Order is set aside.

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

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 08, 2026/tk/jk