



2026:DHC:5496



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 09.07.2026**

+ RC.REV. 148/2026, CM APPL. 28294/2026 (Stay) & CM APPL. 28295/2026 (Ex.)

MALKEET SINGHPetitioner

Through: Mr. Mukesh Kumar Suman and
Mr. Shiv Sahay, Advocates.

versus

AJAY KUMAR AGGARWALRespondent

Through: Mr. Rajesh Katyal, Mr. Shivam
Sethi, Ms. Grishita Chopra and
Ms. Madhura M.N., Advocates.**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**% **JUDGEMENT (Oral)**

1. The present Petition, stated to be filed under Section 25B(1) of the Delhi Rent Control Act, 1958 [**“DRC Act”**], seeks setting aside of the Order dated 04.04.2026 [**“Impugned Order”**], passed by Sh. Gaurav Goyal, ARC-1, Central District, Tis Hazari Courts, Delhi [**“learned ARC”**], in the matter bearing No. RC ARC 221/2025 [**“Eviction proceeding”**].

2. Learned counsel appearing on behalf of the Petitioner submits that the Application seeking Leave to Defend [**“LTD Application”**] was declined to be taken on record by the learned ARC solely on the ground that the same had been filed with a delay of two (02) days. Learned counsel for the Petitioner submits that while, admittedly, the



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learned ARC does not possess the power to condone the delay in filing an LTD Application, this Court, in exercise of its jurisdiction under Section 25B(8) of the DRC Act, can grant appropriate relief in exceptional circumstances.

3. Learned counsel for the Petitioner, therefore, submits that having regard to the fact that the delay was of only two (02) days, the same deserves to be condoned and the matter be remanded back to the learned ARC for consideration of the LTD Application on merits.

4. Learned counsel for the Petitioner further places reliance upon the averments contained in the Application filed under Section 5 of the Limitation Act, 1963 [**“Condonation of Delay Application”**], and in particular Paragraph No. 2 thereof, to submit that the delay occurred on account of the time consumed in tracing and collecting the documents which were required to be filed along with the LTD Application. Paragraph No. 2 of the Condonation of Delay Application reads as follows:

“That the Respondent received the summon for judgment on 4.8.2025 and thereafter, the Respondent searched the documents for filing the leave to defend application and after searching the relevant documents, provided the same to his counsel and thereafter, counsel prepared the leave to defend application and filed before this Hon'ble Court on 21.08.2025.”

5. This Court has heard learned counsel appearing on behalf of the parties at length and, with their able assistance, perused the material available on record.

6. At this juncture, it would be apposite to take note of the Judgment of this Court in *Director Directorate of Education & Anr. Vs. Mohd. Shamim & Ors.*¹, wherein the learned Division Bench was called upon to consider the scope of interference by this Court, in

¹ 2019:DHC:6510-DB



exercise of its revisional jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, with an order of eviction passed consequent upon the failure of a tenant to file an Application seeking leave to defend within the statutorily prescribed period.

7. Upon consideration of the aforesaid issue, the learned Division Bench rendered its conclusions in Paragraph Nos. 25 and 26 of the aforesaid Judgment, which read as under:

“25. We, therefore, hold that merely because the Controller has passed an order of eviction in a proceeding governed under Section 25B, on failure of the tenant to, within the prescribed time, apply for leave to defend and merely because the Controller vide *Prithpal Singh* supra has been held to be not empowered to recall the said order, would not prevent this Court from, in exercise of powers under proviso to Section 25B(8), considering once a case for the landlord to be not entitled to an order of eviction to be deemed admission following non-filing of leave to defend within the prescribed time, the said order cannot be said to have been made according to law and would qualify as being contrary to law and liable to be set aside.

26. Having held so, we answer the question no. (A) framed in the referral order in the affirmative and with the condition that this Court would be empowered to set aside the order of eviction only if the tenant passes the dual test of prevented by reasons beyond control from applying for leave to defend within the prescribed time (as distinct from every default) and if makes out a substantial case for consideration of the application for leave to defend. We, however, in deference to *Prithpal Singh* supra choose/opt to not answer the question (B) framed in the referral order.”

8. A conspectus of the aforesaid observations makes it manifest that the jurisdiction of this Court to interfere with an eviction order passed consequent upon the failure of a tenant to file an Application seeking leave to defend within the prescribed limitation period is circumscribed by a dual test. The tenant must, *firstly*, demonstrate that he was prevented, for reasons beyond his control, from filing the Application within the prescribed period and, *secondly*, make out a substantial case warranting consideration of the Application seeking



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leave to defend.

9. Significantly, the aforesaid requirements are cumulative. Thus, unless the tenant succeeds in satisfying both limbs of the test, the question of interference by this Court, in exercise of its revisional jurisdiction under Section 25B(8) of the DRC Act, would not arise.

10. Tested on the anvil of the aforesaid principles, this Court finds that the Petitioner has failed to satisfy even the first limb of the test prescribed by the learned Division Bench. The only explanation put forth by the Petitioner is that the delay occurred on account of the time consumed in tracing and collecting the documents sought to be filed along with the LTD Application.

11. In the considered view of this Court, the aforesaid explanation, by itself, cannot constitute a circumstance beyond the control of the Petitioner, as contemplated by the learned Division Bench. No material has been placed on record, nor has any circumstance been demonstrated during the course of oral submissions, which would persuade this Court to conclude that the Petitioner was prevented, for reasons beyond his control, from filing the LTD Application within the statutorily prescribed period.

12. In view of the foregoing discussion, once the Petitioner has failed to satisfy the first and foundational limb of the dual test prescribed by the learned Division Bench, the question of examining whether the Petitioner has made out a substantial case for consideration of the LTD Application does not arise.

13. Accordingly, this Court finds no infirmity in the Impugned Order passed by the learned ARC, warranting interference in exercise of its revisional jurisdiction under Section 25B(8) of the DRC Act.

14. The present Petition, along with pending Application(s), if any,



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stands dismissed.

HARISH VAIDYANATHAN SHANKAR, J.
JULY 09, 2026/nd/dj