



2026:DHC:6691



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

Date of decision: 14.08.2026

CNR No. DLHC010378022026

+ RC.REV. 282/2026, CM APPL. 54420/2026 (Stay), CM APPL. 54421/2026 (Ex. From filing the certified copies of annexures) & CM APPL. 54422/2026 (Ex. From true typed copies of the annexures)

K.B KAPOOR AND CO. PVT. LTD.

.....Petitioner

Through: Mr. Joginder Pal Singh, Mr.
Shivendu Chauhan & Mr.
Himanshu Singh, Advs.

versus

SHANTI SWAROOP

.....Respondent

Through:

CORAM:

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

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JUDGEMENT (Oral)

1. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**¹ read with Sections 115 and 151 of the **Code of Civil Procedure, 1908**², seeking to assail the **Judgment and Order dated 04.02.2026**³ passed by the learned **ACJ-cum-CCJ-cum-ARC, South East, Saket Courts, Delhi**⁴, in **RC ARC 44/2021**⁵, titled

¹ DRC Act

² CPC

³ Impugned Order

⁴ learned ARC

⁵ Eviction Petition



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“Shanti Swaroop v. K.B. Kapoor and Co. Pvt. Ltd.”, whereby the application seeking leave to defend filed by the Petitioner herein came to be dismissed and the Impugned Order was passed in respect of **Private Shop bearing No. 45/3, Ground Floor, admeasuring 150 sq. ft., in Property No. 45, Community Centre, East of Kailash, New Delhi-110065⁶**.

2. Learned counsel appearing on behalf of the Petitioner assails the Impugned Order, firstly, on the ground that the Petitioner herein was never inducted as a tenant in respect of the subject premises.

3. He submits that the original tenancy was between Mr. K.B. Kapoor and Mr. Bhagwan Dass and that the Petitioner herein was not a party to the said tenancy.

4. On the strength of the aforesaid submission, learned counsel contends that, since the Petitioner was not the original tenant, the Impugned Order could not have been passed against him.

5. He further submits that, in any event, the subject property did not devolve upon the Respondent and, consequently, the Respondent had no *locus* to maintain the Eviction Petition against the Petitioner.

6. Learned counsel further submits that the issue arising in the present case is not one of the availability of alternative accommodation, but of additional accommodation being sought by the Respondent. He submits that the learned ARC has failed to appreciate this distinction and has, on that account also, erroneously dismissed the application seeking leave to defend.

7. He, therefore, submits that the challenge to the Impugned Order is confined to the aforesaid aspects and no other ground is sought to

⁶ Subject Property



be urged in the present Petition.

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

9. Petitioner and, with his able assistance, has perused the relevant documents placed on record as also the Impugned Order.

10. 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.

11. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁷, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁸, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁹, 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.

12. 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.*¹⁰, and *Sanjeev Hiranandani v. Sunny Grover*¹¹.

13. 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

⁷ (1998) 8 SCC 119

⁸ (2014) 9 SCC 78

⁹ (2022) 6 SCC 30

¹⁰ 2024:DHC:9322

¹¹ 2025:DHC:11285



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.”

14. 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.

15. 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.

16. 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.

17. The learned ARC, considering the aforesaid objections raised by the Petitioner herein and, upon examining the material placed on record, has dealt with the same in the Impugned Order: The relevant portion thereof is extracted hereinbelow:

“Ownership and Landlord-Tenant Relationship Between the Parties

15. The ownership of petitioner to the suit property and the landlord-tenant relationship have been disputed by the respondent. The version of the respondent is that Sh. K.B. Kapoor is rather the tenant at the suit property and said tenant has been paying rent through the account of the respondent company. Therefore, it has been contended that respondent is neither in possession of the suit property nor is it the tenant. **Further, ownership of Late Sh. Bhagwan Das has not been disputed and it is the case of the respondent that Sh. K.B. Kapoor was inducted as tenant at the demised premises by Late Sh. Bhagwan Das.**

15.1 It is pertinent at this juncture, to discuss authority as laid down by the Hon'ble Supreme Court in the case titled Sheela & Ors. Vs. Firm Prahlad Rai Prem Prakash. 2002 (SC) that "In rent matters,



the burden of proving ownership on a landlord is not that heavy as it is in a title suit and even a lesser quantum of proof may suffice for holding that the landlord is the owner of the premises in question."

15.2 Further, in case titled ***Jiwan Lal Vs. Gurdial Kaur &vOrs. 1995 RLR 162*** the Hon'ble High Court of Delhi, while dealing with the concept of ownership in a pending eviction petition under Section 14(1)(e) of the DRC Act had noted as follows:-

"There is a tendency on the part of tenants to deny ownership in cases under Section 14(1)(e). To test the substance of such a plea on the part of the tenants the Courts have insisted that they should state who else is the owner of the premises if not the petitioner. Further these cases under Section 14(1)(e) are not title cases involving disputes of title to the property. Ownership is not to be proved in absolute terms."

15.3 Further, in the case titled ***Smt. Shanti Sharma & Ors. Vs Smr. Ved Prabha & Ors 1987 AIR 2028***, the Hon'ble Supreme Court observed: -

"That the meaning of term owner' is vis a vis the tenant i.e. the owner should be something more than the tenant."

"It is also well settled that the petitioner should be something more than the tenant and the petitioner need not prove his ownership in absolute terms. It is sufficient for the petitioner to prove or to show that he is something more than a tenant."

16. **It has not been denied by the respondent that Late Sh. Bhagwan Das was the original owner of the suit property and that the petitioner is one of his legal heirs. Further, Will dated 10.01.1992 has also not been denied and the defence pleaded by the respondent is that the mutation deed in favour of the petitioner is forged and also that the other co-owners/HUFs, in whose favour the suit property has been devolved by virtue of the aforesaid Will, have not been made party to the present petition.** It has also been contended that the power of attorneys filed on behalf of said co-owners are forged. It is the admitted position that Sh. K.B. Kapoor has been paying rent to the legal heir of Late Sh. Bhagwan Das. In such facts and circumstances of the matter, a futile attempt has been made by the respondent to deny ownership of the petitioner by saying that the mutation deed does not confer ownership and that the same is a forged document. **At this stage, it is also relevant to point out that the version of the respondent is that the petitioner is owner of seven shops at the property in question and the same are at his disposal as alternate accommodation. It is relevant to ask in such a case, as**



to how the respondent could say that the petitioner is not the owner of the suit property by virtue of the aforesaid Will and Mutation Deed while averring, at the same time, that he owns seven shops at the property in question by virtue of the very same documents? Indeed, the respondent is trying to blow hot and cold at the same time.

17. Besides that, it has vaguely been stated by respondent that the petitioner is not owner of the suit property and nothing has been stated by it as to who the owner is, if not the petitioner. Further, the contention raised by the respondent that the coowners/ HUFs in whose favour Will in question has been executed have not been party to the present petition, is without substance in light of authority laid down in case titled *Mohinder Prasad Jain Vs. Manmohan Lal Jain (2006) 2 SCC 724*. **It has been held that one of the co-owners can file a petition for eviction and the consent of the co-owner would be assumed as taken unless it is shown that the other co-owner is not agreeable to eject the tenant and the petition was filed in spite of disagreement.**

18. **Thus, it is not the case of the respondent that there is disagreement between the co-owners of the suit property with respect to the present petition. Considering this situation, the contention raised by the respondent that the power of attorneys filed on behalf of the co-owners are forged, also falls flat.**

19. Further, the landlord-tenant relationship between the petitioner and respondent has also been denied. It is stated by respondent that Sh. K.B. Kapoor is the tenant at the demised premises. The averments made in application seeking leave to defend filed on behalf of the respondent are relevant to be discussed in this regard. It has been stated in paragraph no.9 of the same that **“the tenancy of the tenant/Respondent has not been terminated in accordance with law and the agreement between the owner/original landlord and the respondent...”** **At one point, it is stated that the respondent is not the tenant and, at the other, it has been stated that the tenancy of the respondent has not been terminated in accordance with law. It would not be an exaggeration to say that the respondent does not seem to be sure about its defence and, the other aspect is that the respondent is making a desperate attempt to deny the landlord-tenant relationship just for the sake of it while admitting the same in its very same application seeking leave to defend.** This state of affairs further gets reflected from the fact that one of the defences taken by the respondent is that the petitioner is seeking to evict the respondent and let out the demised premises again at a higher rent. *How could the petitioner further let out the suit property if he is not the owner? Similarly, how could the*



respondent raise a plea that it is being sought to be evicted by the petitioner with a view to have enhanced rate of rent from another tenant when the respondent does not consider itself to be tenant at the demised premises?

20. Furthermore, very vaguely, it has been contended by the respondent that false rent receipts have been filed and relied upon by the petitioner without there being anything to substantiate the said allegation. **Moreover, in light of the above admissions made on behalf of the respondent with respect to tenancy, the allegation regarding false rent receipts is not even required to be considered.** Also, computer generated documents have been filed by petitioner which reflect the address of tenanted premises as the address of the respondent. The said documents have not been denied or disputed on behalf of the respondent.

21. The grounds put forth by tenant/respondent in seeking leave to defend shall reflect triable issue and the same should not appear to be sham, misleading and vexatious. In view of the above discussion, there is no denying that the respondent has tried to raise false issues regarding ownership of petitioner and the landlord-tenant relationship whereas, as per its own pleadings, the aforesaid aspects have rather been admitted. Accordingly, ***no triable issue arises with respect to ownership of petitioner with respect to the tenanted premises and also, regarding the landlord-tenant relationship between the parties in the present matter.***

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Availability of Alternate Reasonable Accommodation

26. It has been contended by the respondent that petitioner owns seven shops at the property in question and four of such shops are lying vacant. The petitioner however, has stated that there are six shops at the property in question and only one of them is vacant, which they intend to use for storage purpose. Further, names of persons/entities in whose possession the said shops are, have been stated by the petitioner in his reply to application seeking leave to defend. To this, it has been submitted on behalf of the respondent that false names have been provided to show that the said shops are occupied.

27. **Firstly, it must be appreciated that the availability of other property/accommodation could not be treated as availability of reasonably suitable accommodation, as the two of them are totally different concepts. It has not even been contended by respondent that the other properties, if any are there, are reasonably suitable for the requirement of the**



petitioner. Further, it is also pertinent to discuss authority laid down by the Hon'ble Supreme Court in case titled "**Sarla Ahuja Vs. United India Insurance Co. Ltd., AIR 1999 SC 100** that-

"the crux of the ground envisages in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be Bonafide. When a landlord asserts that he requires his building for his own occupation, the Rent Controller shall not proceed on presumption that requirement is not bona-fide. When other conditions of the clause are satisfied and when landlord shows a prima-facie case, it is open to the Rent Controller to draw a presumption that requirement of the landlord is bona-fide. It is often said by the Courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona-fides of requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself."

28. **Mere denial at part of the respondent that the aforementioned shops are occupied by the persons as stated by the petitioner, would not suffice.** In addition to that, in view of authority as discussed above, the suitability of premises available to landlord is to be assessed by the landlord himself and the same could not be given to be decided by the tenant. It has been further contended on behalf of the respondent that the petitioner and his sons own several commercial and residential properties, without providing details with respect to any of them. It is also the defence of the respondent that the petitioner has initiated similar proceedings against another tenant at property in question. It is relevant to state that there is no bar to initiate proceedings under this Act against multiple tenants. Also, the initiation of proceedings regarding eviction of another tenant from other property does not mean that the said other property is available to the petitioner right away for catering to his requirement.

29. Thus, in light of the above discussion, it also ***stands established that the petitioner and his sons do not have any reasonably suitable accommodation available with them for the purpose as stated and no triable issue arises with respect to this aspect also.***

(emphasis supplied)

18. A perusal of the aforesaid findings would reveal that the learned



ARC has considered, in detail, the very issues which are sought to be reiterated before this Court.

19. In respect of the ownership of the subject premises, the learned ARC has taken note of the fact that the title originated from Late Shri Bhagwan Das and that the Respondent claims his right in the subject property as one of his legal heirs, while also taking note of the fact that neither the ownership of Late Shri Bhagwan Das nor the subsequent devolution of the property has been disputed.

20. The learned ARC has further noticed the somewhat inconsistent stand of the Petitioner, who, on the one hand, seeks to dispute the Respondent's ownership of the subject premises and, on the other hand, relies upon the very same position to contend that the Respondent owns the other shops forming part of the subject property and that such shops constitute alternate accommodation.

21. The objection with regard to the other co-owners has also been considered in the Impugned Order, where the learned ARC has taken note of the settled position that an eviction petition instituted by one of the co-owners is maintainable in the absence of any material to show that the remaining co-owners are not agreeable to the institution of such proceedings.

22. Significantly, the Petitioner has not placed any material before the learned ARC, or even before this Court, to indicate that there exists any disagreement amongst the co-owners with regard to the present eviction proceedings. The objection, therefore, proceeds merely on the basis that the other co-owners have not been impleaded, without disclosing any circumstance which would render the proceedings otherwise not maintainable.

23. Further, the question relating to the landlord-tenant relationship



has also been considered with reference to the pleadings of the Petitioner itself before the learned ARC.

24. While the Petitioner seeks to contend that it is not a tenant in respect of the subject property, the learned ARC has noticed that the application filed by the Petitioner herein seeking leave to defend itself proceeds on the basis that the tenancy continues by operation of law and that the same has not been terminated in accordance with law. The Petitioner has, therefore, sought to question the existence of the tenancy while simultaneously raising contentions which proceed on the assumption of its subsistence. The learned ARC has rightly taken note of this inconsistency while examining whether a triable issue arises on this aspect.

25. Insofar as the question of alternate accommodation is concerned, the Impugned Order also does not proceed on the mere existence of some other property. It is noted that the learned ARC has drawn a distinction between an alternate accommodation and an accommodation which is reasonably suitable for the requirement pleaded by the Respondent. The fact that the Respondent may have other properties cannot, by itself, determine the question of their suitability, and the choice of accommodation which would reasonably meet the landlord's requirement cannot be dictated merely on the basis of the Petitioner's assessment.

26. The learned ARC has also noticed that the assertions regarding several other commercial and residential properties are not supported by particulars or material which would demonstrate that such properties are available to the Respondent and are reasonably suitable for the purpose for which the subject premises are sought.

27. Therefore, this Court finds no merit in the aforesaid contentions



urged by the Petitioner. The grounds raised in the present Petition are, in substance, a reiteration of the very objections which were placed before the learned ARC and which have been considered in the Impugned Order.

28. The findings demonstrate that the learned ARC has considered the Respondent's claim to ownership, the devolution of the subject property, the objection regarding the other co-owners, the existence of the landlord-tenant relationship and the alleged availability of alternate accommodation, and has thereafter returned findings on each of these aspects.

29. This Court, upon consideration of the aforesaid findings, is unable to discern any error in the decision-making process which would warrant interference. The contentions now urged do not disclose any material which was either overlooked or which would render the findings returned in the Impugned Order perverse. What is essentially sought is a re-appreciation of the same material and a reconsideration of the conclusions already reached, which is not the scope of the limited revisional jurisdiction exercised by this Court under the proviso to Section 25-B(8) of the DRC Act.

30. In the circumstances, this Court finds no perversity, illegality or material irregularity in the Impugned Order warranting interference in exercise of its revisional jurisdiction. The findings returned by the learned ARC are supported by the pleadings and material placed before it, and the contentions reiterated before this Court do not persuade this Court to arrive at a different conclusion.

31. Consequently, the present Petition, being devoid of any merit, stands dismissed.

32. The present Petition, along with pending application(s), if any,



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stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 14, 2026/v/jk