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

Date of decision: 24.07.2026

+ RC.REV. 241/2026, CM APPL. 46966/2026 (Stay) & CM APPL. 46967/2026 (Ex.)

ASHWANI KUMAR GUPTAPetitioner
Through: Mr. S.C. Singhal, Advocate.

versus

JASBIR SINGH LOYALRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

% **JUDGMENT (Oral)**

1. The present petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**¹ challenging the **Order dated 25.04.2026**² passed by the **learned ACJ-cum-CCJ-cum-ARC, New Delhi District, Patiala House Courts, New Delhi**³, in case being RC-ARC 22/2018, titled “*Jasbir Singh Loyal v. Ashwani Kumar Gupta*”, whereby the application for leave to defend filed on behalf of the Petitioner herein was dismissed by the learned ARC.

2. Learned counsel appearing on behalf of the Petitioner submits that the learned ARC has erred in dismissing the application seeking leave to defend by failing to appreciate that the Respondent had alienated portions of the very property in which the tenanted premise

¹ DRC Act

² Impugned Order

³ learned ARC



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is situated. It is contended that the said transactions belie the Respondent's plea of *bona fide* requirement.

3. He also submits that Shop No. II-40/3, which was sold shortly before the institution of the eviction petition, was of sufficient dimensions to accommodate the proposed restaurant. He further contends that the said transaction was merely a sham and that the premises continued to remain under the Respondent's control.

4. He further submits that another shop bearing No. II-40/9A also came to be sold during the pendency of the eviction petition and the factum of these sales having been effected of various premises clearly negates the claim of *bona fide* requirement on the part of the Respondent and therefore, prays that the Impugned Order be set aside and appropriate orders be passed in accordance with law.

5. This Court has heard the learned counsel for the Petitioner and, with his able assistance, perused the material available on record, including the Impugned Order.

6. 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.

7. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁴, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁵, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁶, has consistently held that the jurisdiction exercised by the High Court

⁴ (1998) 8 SCC 119

⁵ (2014) 9 SCC 78

⁶ (2022) 6 SCC 30



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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.

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

9. 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

⁷ 2024:DHC:9322

⁸ 2025:DHC:11285



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power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.”

10. 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.

11. 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.

12. 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. Since the challenge is directed against the findings returned by the learned ARC while



dealing with the alleged sale of two shops by the Respondent, it would be apposite to extract the relevant findings recorded in the Impugned Order. Relevant paragraphs in the Impugned Order are extracted herein below:

“35) Next, it is contended that there are 13 shops on the ground floor, out of which 02 shops have already been sold by the petitioner and therefore, the need is not bona fide. In this regard, it is contended that the petitioner after obtaining the possession of shop no. II/40/1 and II/40/3 have sold the same in the year 2018. It is pertinent to note that the present petition was filed on 26.03.2028. Further, it is trite to state that time is not static and with lapse of time, old needs may extinguish, and new requirements may emerge. Admittedly, shop no. II/40/3 had been sold by the petitioner on 04.01.2018 which is prior to the filing of the present petition. In this regard, reliance is placed upon the case of **Shyam Sunder Ahuja Vs Sushil Kumar, 2017 SCC Online Del 10624**, wherein the Hon'ble High Court of Delhi has held that the plea that the landlord has sold some property or let out some property is not a ground to deny the order of the eviction to the landlord. The relevant extract is reproduced here under :-

" 16. Not only so, the petitioner/tenant also did not state that there was no change in the requirement of the respondent/landlord since then. Merely taking a plea that the respondent/landlord has in the past sold some property or let out some property has in Narender Kumar Shah Proprietor Jay Bharat Steels Vs. Malti Narang 2014 SCC Online Del 3839 and Anil Kumar Bagania Vs. Shiv Rani 2014 SCC Online Del 6645 been held to be not a ground for denying order of eviction to landlord on the ground of self requirement of premises. "

36) Also, it is pertinent to note that at one end, respondent is claiming that the petitioner has sold II/40/3 and at the same time, respondent is contenting that the petitioner has let out portions of said II/40/3 to tenants namely Sough India Stores & Travels and South India Meenakshi Dosa Point. Thus, contradictory submissions have been made merely for the purpose of raining a contention without any basis in this regard. Therefore, no triable issue arises.

42) Lastly, it is contended that the need is not bona fide as the petitioner, during the pendency of the petition, has sold shop no. II/40/9A. It is stated that the said shop was situated on the ground floor itself and the shop is situated adjacent to the tenanted premises itself. Hence, it is submitted that had the need been bona fide, the petitioner would not have sold the shop on 03.11.2020.



Per contra, it is contended on behalf of the petitioner that though the said shop has been sold but it was due to financial requirements. It is stated that due to COVID-19 pandemic, petitioner was facing financial constraints and also required funds to open the impugned multi-cuisine restaurant and therefore, had to sell the shop in question. Moreover, it is stated that the said shop was also not suitable for the projected requirement as it is much smaller in size than the tenanted premises.

43) In this regard, it is pertinent to note that in case of **Gaya Prasad Vs. Shri Pradeep Srivastava, Appeal Civil No. 1071/1072 of 2001**, it was observed as under:-

10. ".... During 23 years after the landlord moved for eviction on the ground that his son needed the building. Neither the landlord nor his son is expected to remain idle without doing any work, lest, joining any new assignment or starting any new work would be at the peril of forfeiting his requirement to occupy the building. **It is a stark reality that the longer is the life of the litigation the more would be the number of developments sprouting up during the long interregnum.** If a young entrepreneur decides to launch a new enterprise and on that ground he or his father seeks eviction of a tenant from the building, the proposed enterprise would not get faded out by subsequent developments during the traditional lengthy longevity of the litigation. His need may get dusted, patina might stick on its surface, nonetheless the need would remain intact. All that is needed is to erase the patina and see the glose. **It is pernicious, and we may say, unjust to shut the door before an appellant just on the eve of his reaching the finale, after passing through all the previous levels of the litigation, merely on the ground that certain developments occurred pendente lite, because the opposite party succeeded in prolonging the matter for such unduly long period.**"

44) Further, perusal of the counter site plan filed by the respondent itself shows that the said shop II/40/9A is much smaller in size compared to the tenanted premises. It is trite to state that it is the prerogative of the landlord to determine which premises best suits his requirements. Further, the Hon'ble Superior Courts have repeatedly held that the Courts are not to sit in the armchair of the landlord and dictate as to how the available property of the landlord is to be best utilized by him. The landlord is the absolute owner of his property and is the best person to decide which property is to be utilized in what way. The respondent cannot dictate as to how the landlord is to utilize his property. The landlord possesses the prerogative to determine their specific requirements, exercising full autonomy regard. It is not within the purview of the courts to impose directives on the landlord



regarding the nature or quality of their chosen usage of the tenanted premises. Therefore, the courts refrain from prescribing any standard or guidelines for the landlord's choices (residential or commercial). Reliance is placed upon the decision of the Hon'ble Delhi High Court in case of **Praveen & Anr. Vs. Mulak Raj & Ors. RC Rev. 417/2016** in this regard. Petitioner has categorically pleaded that the requirement of the tenanted premises as well as its suitability for the projected bona fide requirement. In comparison the purported alternative i.e. II/40/9A sold by the petitioner is much smaller in size compared to the tenanted premises in question. Hence, the sale of said shop cannot render the requirement of the petitioner as mala fide. Moreover, admittedly, at the time of filing of the petition, the petitioner did not have the said shop for his possession. Furthermore, while deciding the question of bona fide requirement of the landlord, it is quite unnecessary to make an endeavor as to how else the landlord could have adjusted. Also, in case the petitioner fails to occupy the premises as has been claimed by him, the Delhi Rent Control Act also provides for recovery of possession by the respondent/tenant of the tenanted premises for his re-entry and occupation. Further, in the case of **Ravichandran and Ors. Vs Natrajan Nadar and Ors. (2004) 1 MLJ 458**, it was held:

"Even assuming that other premises are available, then the choice is left to the landlord to decide as to which non-residential premises he should occupy, and the tenant cannot have any say in the matter. If the landlord is able to show the bona fide, then the tenant cannot dictate terms to the landlord that he should occupy some other building and not the one mentioned in the petition."

45) Hence, I find that the respondent has failed to raise any triable issue in this regard.

13. A perusal of the Impugned Order demonstrates that both the contentions urged on behalf of the Petitioner have received detailed consideration at the hands of the learned ARC. Insofar as the sale of Shop No. II-40/3 is concerned, the learned ARC has examined the timing of the transaction, noticed that the sale had preceded the institution of the eviction petition and, upon relying upon the settled legal position, concluded that the mere sale of another property by the landlord would not, by itself, negate the plea of *bona fide* requirement.

14. Similarly, the contention founded upon the sale of Shop No. II-



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40/9A during the pendency of the eviction proceedings has also been specifically adverted to by the learned ARC. The explanation furnished by the Respondent that the said shop had been sold on account of financial constraints during the *COVID-19* pandemic and for arranging funds for the proposed business was duly noticed. The learned ARC has also considered the contention that the said premises were comparatively smaller in size and unsuitable for the projected requirement before arriving at the conclusion that no triable issue arose on that account.

15. Therefore, in the considered opinion of this Court, findings returned by the learned ARC cannot be said to suffer from non-consideration of any material plea or omission to examine the contentions urged on behalf of the Petitioner. Rather, the Impugned Order reflects due consideration of each of the grounds now sought to be reiterated before this Court. No other contention, apart from those dealt with hereinabove, was urged during the course of oral submissions.

16. In the absence of any jurisdictional error, manifest illegality, material irregularity or perversity in the decision-making process adopted by the learned ARC, no ground warranting interference under the proviso to Section 25B(8) of the DRC Act is made out.

17. Resultantly, the present Petition, along with pending application(s), stands dismissed in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.
JULY 24, 2026/tk/jk