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

Date of decision: 27.10.2026

\# **CNR No. DLHC010479342026**

\+ RC.REV. 383/2026

SH N K GUPTA & ORS. .....Petitioners

Through: Mr. S.K. Nanda, Advocate.

versus

MUKUL GUNDHI .....Respondent

Through: *Nemo.*

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% JUDGEMENT (Oral)

CM APPL. 73600/2026 (Seeking early hearing on behalf of the Petitioner no.5)

1. The present Application has been filed under Section 151 of the Code of Civil Procedure, 1908 ["**CPC**"], seeking early hearing of the matter.

2. For the reasons as stated in the Application, the same is allowed and the matter is taken up for hearing today.

3. The present Application stands disposed of in the above terms.

RC.REV. 383/2026

4. The present Petition has been filed under Section 25-B(8) of the Delhi Rent Control Act, 1958 ["**DRC Act**"], read with Section 151 of the CPC, assailing the Order and Judgment dated 15.05.2026 ["**Impugned Order**"] passed by the learned Additional Rent

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Controller-02, Central District, Tis Hazari Courts, Delhi ["**Learned ARC**"], in Eviction Petition bearing RC/ARC No. 478252/11, titled as *"Mukul Gundhi v. Sheela Gupta (since deceased) through Lrs"*, by which the Respondent herein has been held entitled for the recovery of the tenanted premises i.e., portion consisting of four rooms, kitchen, bath and store and two WCs situated on the first floor, forming part of property no. 4593-A, No. 9, Darya Ganj, New Delhi - 110002 ["**Subject Premises**"].

5. Learned counsel appearing on behalf of the Petitioners assails the Impugned Order on the limited ground of availability of suitable alternative accommodation with the Respondent. It is contended that the Respondent is possessed of Property No. 1588, Dariba Kalan, Delhi, comprising commercial shops on the ground floor and residential accommodation on the first floor, consisting of three bedrooms, stores, a kitchen and a toilet, which is alleged to be lying vacant and suitable for his use. It is, thus, contended that the aforesaid accommodation is sufficient to meet the Respondent's requirement and, consequently, the Impugned Order directing the eviction of the Petitioners from the Subject Premises is unwarranted.

6. No other submissions were advanced by the learned counsel for the Petitioners.

ANALYSIS:

7. This Court has heard learned counsel for the Petitioners and, with his able assistance, perused the Impugned Order, the present Petition and the other relevant material placed on record.

8. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioners, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the

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proviso to Section 25B(8) of the DRC Act.

9. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***[1], ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***[2], and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***[3], 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.

10. 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.***[4], and ***Sanjeev Hiranandani v. Sunny Grover***[5].

11. 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

[1] (1998) 8 SCC 119
[2] (2014) 9 SCC 78
[3] (2022) 6 SCC 30
[4] 2024:DHC:9322
[5] 2025:DHC:11285

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> 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."

12. 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.

13. 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

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unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

14. 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.

15. For a proper adjudication of the issue concerning the availability of alternative accommodation, it would be apposite to reproduce the relevant findings recorded by the learned ARC in the Impugned Order, which are as follows:

> "62. It is further alleged by respondent that the petitioner has concealed the fact and ownership of property no.1588, Dariba Kalan, Delhi which consists of commercial shop/s on the ground floor apart from residential accommodation at first floor comprising of three bedrooms, stores, kitchen, toilet etc. which is lying vacant and at his disposal and more than enough than the property at Bazar Guliyan where petitioner is presently residing.
>
> 63. Per contra it is submitted on behalf of petitioner that said property no.1588, Dariba Kalan, Delhi comprises of only one shop on ground floor which is owned by Sh. Ram Singh and same is occupied by a tenant M/s Pyare Lal Surender Kumar. Same has been reiterated by PW-2 in evidence affidavit Ex.PW2/A who has further placed on record copy of receipt for payment of property tax w.r.t. property no.1586-1588, Dariba Kalan, Delhi-06 which is Ex.PW2/7 (OSR) along with copy of property tax bill which is Ex. PW2/8 (OSR). Further placed on record copy of counter foil of rent receipt which is Ex. PW2/9 (OSR) issued to M/s Pyarelal Surender Kumar by Sh. Ram Singh. Hence, it shows that said shop is already in occupancy of that tenant and same cannot be used by petitioner for bonafide need. Anyways petitioner is in bonafide requirement of residential space. Respondent has failed to bring on record any oral or documentary evidence to prove her averments. Nothing contradictory came out in cross-examination of PW-1 and PW-2 as well.
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> *****
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> 70. Even otherwise it is also a settled law that mere availability of other alternate accommodation is itself not the decisive factor for denial of eviction proceedings by the landlord, more so, since there are various factors like the size, location, access, purpose, viability, safety concerns, football, and/or like, amongst others which have/ are to be taken into consideration while dealing with the aspect of

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availability of alternate suitable accommodation. Reliance is placed upon case titled **Shiv Sarup Gupta v Dr. Mahesh Chand Gupta (1999) 6 SCC 222.**

71. Moreover, it can be observed that it is not for the tenant to dictate to the landlord that how he should meet or fulfill his requirement. In this regard reference can be also made to the judgment of Hon'ble High Court of Delhi titled as **Sudesh Kumar Soni & Ors. Vs. Prabha Khanna & Ors. 153 (2008) DLT 652 it was observed that: -**

> "24. It is often said by 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 the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.
>
> 25. Suitability has to be seen from the convenience of the landlord and his family members and on the basis of the circumstances including their profession, vocation, style of living, habits and background. Landlord is the best judge of his residential requirement".

72. In **Shiv Sarup Gupta Vs Dr. Mahesh Chand Gupta AIR 1999 SC 2507, at pg-2512 in para 14 & 15**, the Hon'ble Supreme Court held that: -

> "14. The availability of an alternate accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation, may have an adverse bearing on the finding as to bonafides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the Court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. Secondly, another principal ingredient of Clause (e) of Sub-section (1) of Section 14 which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available than the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternate residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in

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> demonstrating objectively to exist. Needless to say that an alternate accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant fact Ors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come."

73. In the case titled as **Ragavendra Kumar Vs Firm Prem Machinery AIR 2000 SC 534**, it was observed as under: -

> "It is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter, (See: **Prativa Devi (Smt.) v. T.K Krishnan**, [1996] 5 SCC 353. In the case in hand the plaintiff-landlord wanted eviction of the tenant from the suit premises for starting his business as it was suitable and it cannot be faulted."

74. Further, in the eviction petition, the landlord need not disclose the alternate properties available to him if he is of the view that the alternate properties are unsuitable for him. The eviction petition is not a declaration or disclosure of all the immovable assets of the landlord and then and the exercise of sifting through the ones' which are or could be deemed to be suitable as alternate accommodation. For any property to be considered alternately available, it has first to be available, i.e. in possession of the landlord and capable of being put to immediate use; thereafter only the issue of its suitability for the bona fide need arises. The landlord's discretion and prerogative in this regard cannot be questioned, except insofar as it is not whimsical, ex facie or shockingly unreasonable. Reliance is placed upon **Babu Lal vs Atul Kumar & Anr. CRP No. 147 of 2012** passed by the Hon'ble High Court of Delhi.

75. In **Praveen and Another vs Mulak Raj and Others (2023) SCC OnLine Del 7721**, it has been held by the Hon'ble High Court 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.

76. In view of the settled legal position, it is not for the respondent to dictate to the petitioner that he should use some other accommodation for their business, even if it is indeed available with the petitioner. The tenanted premises belong to the petitioner and it is for the petitioner to see whether it is suitable for his requirement or not. It is the right of the petitioner to choose a

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> property which is going to be more profitable and convenient for bonafide need. If the tenanted premises is suitable as per his needs, the petitioner has every right to possess the said premises and the respondent cannot contend that the petitioner should manage their affairs otherwise. While deciding the question of bonafide requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted. Thus, the petitioner has successfully established alleged bonafide need and paucity of accommodation."

16. A perusal of the aforesaid findings of the learned ARC reveals that the contention regarding the availability of alternative accommodation at Property No. 1588, Dariba Kalan, was duly considered. The learned ARC has taken note of the Respondent's explanation that the commercial premises forming part of the said property comprise a shop owned by Sh. Ram Singh and occupied by a tenant, which assertion finds support in the documentary material placed on record, including the property tax documents and the counterfoil of the rent receipt exhibited during evidence.

17. The learned ARC has further recorded that the Petitioners failed to adduce any oral or documentary evidence substantiating their assertion regarding the availability of the alleged alternative accommodation. In the absence of material establishing that the accommodation relied upon is available to the Respondent for immediate use and is reasonably suitable to meet the requirement in question, the mere assertion of its existence cannot, by itself, displace the finding of *bona fide* requirement returned by the learned ARC.

18. It is trite law that the availability of alternative accommodation cannot be assessed in the abstract, divorced from its actual availability and suitability in the facts and circumstances of the case. The determination of such suitability must necessarily be undertaken from the standpoint of the landlord's requirement, and the tenant cannot

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dictate the manner in which the landlord ought to arrange or satisfy such requirement.

19. The aforesaid view finds support in the decision of the Hon'ble Supreme Court in ***Anil Bajaj & Anr. v. Vinod Ahuja***[6], wherein it was reiterated that the existence of other properties with the landlord does not, by itself, defeat a claim for eviction on the ground of *bona fide* requirement, nor can the tenant dictate the manner in which the landlord ought to utilise his property. The relevant consideration is whether the alternative accommodation relied upon is, in fact, available and reasonably suitable to meet the requirement in question. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

> "**6.** In the present case it is clear that while the landlord (Appellant 1) is carrying on his business from a shop premise located in a narrow lane, the tenant is in occupation of the premises located on the main road which the landlord considers to be more suitable for his own business. The materials on record, in fact, disclose that the landlord had offered to the tenant the premises located in the narrow lane in exchange for the tenanted premises which offer was declined by the tenant. It is not the tenant's case that the landlord, Appellant 1, does not propose to utilise the tenanted premises from which eviction is sought for the purposes of his business. It is also not the tenant's case that the landlord proposes to rent out/keep vacant the tenanted premises after obtaining possession thereof or to use the same is any way inconsistent with the need of the landlord. What the tenant contends is that the landlord has several other shop houses from which he is carrying on different businesses and further that the landlord has other premises from where the business proposed from the tenanted premises can be effectively carried out. It would hardly require any reiteration of the settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilised by him for the purpose of his business. Also, the fact that the landlord is doing business from various other premises cannot foreclose his right to seek eviction from the tenanted premises so long as he intends to use the said tenanted premises for his own business."

[6] (2014) 15 SCC 610

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20. Further, in ***Charanjeet Singh v. Vivek Jain***[7], the Hon'ble High Court of Delhi emphasised that an unsubstantiated assertion regarding the availability of alternative accommodation, unsupported by material particulars or documentary evidence, would not suffice to displace the landlord's claim. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

> "**16.** Then comes the last leg of challenge to the impugned order qua availability of the reasonably suitable alternate accommodation. The petitioner tenant in his application for leave to contest alleged that one room on ground floor of the larger premises is lying vacant and the same can be used by the respondent landlord for the purposes of storage of stock. In reply, the respondent landlord categorically denied availability of any such vacant room. Despite that, the petitioner tenant did not bring on record even a shred of reliable documentary material in support of this averment. Merely on the basis of such bald averment if the parties are pushed into the churning and rigmaroles of full dress trial, it would completely negate the principle underlying Section 14(1)(*e*) of the Act, which provides speedy remedy to a landlord for his bona fide need of the tenanted premises as he has no reasonably suitable alternate accommodation."

21. Applying the aforesaid principles to the facts of the present case, the learned counsel for the Petitioners have not demonstrated any perversity in the appreciation of the material on record, any material evidence having been ignored, or any error apparent on the face of the Impugned Order warranting interference by this Court in the exercise of its limited revisional jurisdiction under the proviso to Section 25B(8) of the DRC Act.

22. In view of the foregoing discussion, the challenge raised by the learned counsel for the Petitioners to the Impugned Order is devoid of merit. The present Petition is, accordingly, dismissed.

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[7] 2024 SCC OnLine Del 613

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23. The present Petition, along with pending Application(s), if any, stands disposed of in the aforesaid terms.

24. The next date stands cancelled, i.e., 08.12.2026.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 27, 2026/pt/ma

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