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

% ***Judgment reserved on: 15.10.2026***
Judgment pronounced on: 27.11.2026

\# **CNR No. DLHC011690472016**

\+ RC.REV. 350/2016, CM APPL. 14104/2018 (Stay), CM APPL. 12067/2025 (Dir.) & CM APPL. 74235/2025 (By R-4 to place on record additional facts and documents)

MAHINDER KAUR (SINCE DECEASED) THR HER LEGAL REPRESENTATIVES & ORS

.....Petitioners

Through: Mr. Akshay Kapoor and Mrs. Kritika Khurana, Advocates

versus

O P VERMA (SINCE DECEASED) THR HIS LEGAL REPRESENTATIVE

.....Respondent

Through: Mr. D. K. Sharma, Mr. Viral Vaibhav and Mr. Rishabh, Advs. for R-1
Mr.Sarthak Bhardwaj, Adv. for Respondent No. 2,3 & 5
Mr. Ankit Virmani and Ms. Devanshi Sharma, Advocates for R-4

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been filed under the *proviso* to Section 25-B(8) of the **Delhi Rent Control Act, 1958**[1], by the

[1] DRC Act

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Petitioners/tenants assailing the **Order dated 09.03.2016**[2] passed by the **learned Additional Rent Controller (South), Saket Courts, New Delhi**[3], in **Eviction Petition No. 28/2008**[4], titled *O.P. Verma (since deceased) through Legal Representatives v. Mahinder Kaur & Ors.*, whereby the application filed by the Petitioners seeking leave to defend was dismissed and an eviction order was passed in respect of the tenanted premises.

BRIEF FACTS:

2. The Respondent, Late Shri O.P. Verma, had instituted the aforesaid eviction petition under Section 14(1)(e) read with Section 25-B of the DRC Act in respect of the **entire ground floor of property bearing No. C-109, Greater Kailash-I, New Delhi, admeasuring approximately 300 sq. yards**[5]. The property comprises the ground floor, first floor, mezzanine floor and barsati/second floor. The ground floor constitutes the subject premises in the occupation of the Petitioners.

3. The subject premises were originally let out for residential purposes to Shri Balwant Singh *vide* Agreement dated 01.07.1973. Upon his demise, the tenancy devolved upon his legal heirs, and thereafter the premises came to be occupied by his son, Late Shri Santokh Singh, along with his wife, Late Smt. Mahinder Kaur, and their son Shri Pritpal Singh and daughters Ms. Neeru and Ms. Renny. It was further alleged that Ms. Neeru and Ms. Renny subsequently left the premises after their marriage, while Ms. Renny later returned with her husband, Shri Ravinder Pal Singh, for a temporary stay.

[2] Impugned Order
[3] learned ARC
[4] eviction petition
[5] subject premises

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4. The present Petitioners claim to have continued in occupation of the premises as tenants. It was further the case of the Respondent that the Petitioners had, without his permission, inducted Ms. Renny and Shri Ravinder Pal Singh into the subject premises and had themselves started shifting to their newly constructed premises at F-79/7, Sainik Farms, New Delhi.

5. The eviction petition was founded, *inter alia*, on the *bona fide* requirement of the Respondent, Late Shri O.P. Verma, and his family members comprising himself, his son Shri Rajan Varma, daughter-in-law Smt. Madhu Reeta Varma, four married daughters, grandson Dr. Rochak Varma and granddaughter Ms. Rashi Varma. It was pleaded that Shri Rajan Varma, a qualified civil engineer who had taken voluntary retirement from Engineers India Limited, was practising as a consultant from the premises, while Dr. Rochak Varma, an M.D., was also carrying on medical consultancy therefrom.

6. The Respondent, Late Shri O.P. Verma, claimed that the accommodation available to him and his family was insufficient for their residential and consultancy requirements. It was accordingly pleaded that the tenanted premises were *bona fide* required to alleviate the alleged shortage of accommodation and to provide the requisite residential as well as consultancy space to the Respondent and his dependent family members.

7. Notice of the eviction petition was served upon the Petitioners and thereafter, the Petitioner Nos. 1 and 2 filed a joint application seeking leave to defend, accompanied by their affidavits, whereas Petitioner Nos. 3 and 4 did not file any application for leave to defend. Earlier, an eviction order had been passed against the Petitioners on 21.11.2005 on the ground of deemed service. The said order was

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challenged before this Court in CRP Nos. 66/2006 and 67/2006, and *vide* order dated 16.05.2006, this Court set aside the said order and directed the learned ARC to consider the application for leave to defend on merits.

8. The Petitioners contested the eviction petition and filed an application seeking leave to defend. They disputed, *inter alia*, the *bona fide* requirement pleaded by the landlord, the availability and suitability of alternative accommodation, the proposed use of the premises for consultancy purposes, and the ownership and entitlement of the legal representatives of the original landlord following his demise. It was also contended that certain members of the landlord's family were already possessed of alternative residential accommodation.

9. During the pendency of the eviction proceedings, Late Shri O.P. Verma expired. Thereafter, his son Shri Rajan Verma sought to prosecute the proceedings and placed reliance upon, *inter alia*, a Will and a Memorandum of Understanding, claiming exclusive ownership in respect of the property. The Petitioners disputed the manner in which the proceedings were sought to be continued and also raised objections regarding the impleadment of the legal representatives of the deceased parties.

10. Pursuant thereto, the learned ARC considered the application for leave to defend filed by Petitioners No. 1 and 2 and, *vide* the Impugned Order, dismissed the same, holding that the objections raised by the Petitioners did not disclose any triable issue warranting grant of leave to defend. Consequently, the eviction petition came to be allowed, and the Impugned Order was passed in respect of the subject premises.

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11. Aggrieved by the aforesaid Order, the Petitioners have preferred the present Petition. During the pendency of the present Petition, the Petitioners filed CM APPL. 42644/2018 seeking permission to place on record the subsequent events and circumstances existing as on the date of filing of the present Petition and thereafter. The application was accompanied by an affidavit of Shri Pritpal Singh, one of the Petitioners.

12. In the said affidavit, the Petitioners sought to place on record, *inter alia*, the alleged existing occupation and utilisation of the accommodation available in property bearing No. C-109, Greater Kailash-I. It was stated that the entire first floor, barsati floor and the two mezzanine floors were in the occupation of Shri Rajan Varma and his wife, and that only two persons were occupying the said portions. It was further stated that the son of Shri Rajan Varma was residing in the United States of America and his daughter was married. On the basis of these circumstances, the Petitioners contended that the subsequent events demonstrated that the Respondent/landlord had no subsisting *bona fide* requirement for the subject premises and that the Petitioners ought to have been granted leave to defend.

13. The Petitioners further stated that the subject property was an old structure, stated to have been constructed more than fifty years earlier, and sought to place on record their contention regarding the prevailing rental value of the ground floor. The Petitioners also expressed their willingness, without prejudice to their rights and contentions, to pay rent at the rate of Rs.1,900/- per month for the preceding five years and to continue paying the same thereafter.

14. The present cause title reflects that both the original parties, *namely*, Late Smt. Mahinder Kaur and Late Shri O.P. Verma, have

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since expired and are represented through their respective legal representatives. Further, this Court has also considered the question of interim user and occupation charges payable by the Petitioners/tenants. By order dated 18.12.2024, this Court, taking note of the nature, location and accommodation comprising the subject premises and the material placed by the parties regarding comparable rentals, fixed interim user and occupation charges for different periods, including Rs.70,000/- per month with effect from 01.01.2025, subject to the final outcome of the present Petition.

15. The aforesaid subsequent events and developments, to the extent relevant to the controversy before this Court, are required to be considered while examining the challenge to the Impugned Order.

SUBMISSIONS ON BEHALF OF THE PARTIES:

16. Learned counsel for the Petitioners would submit that the Impugned Order suffers from an erroneous decision-making process, inasmuch as the learned ARC failed to appreciate the material circumstances having a direct bearing upon the alleged bona fide requirement of the Respondent/landlord. It would be contended that the original landlord, Late Shri O.P. Verma, expired during the pendency of the eviction proceedings and, consequently, the requirement pleaded by him could not be treated as continuing thereafter, particularly when no specific requirement of the legal representatives was ever pleaded or established before the learned ARC.

17. Learned counsel would further submit that the learned ARC failed to properly appreciate the availability of suitable alternative accommodation with the Respondents. It would be contended that the

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Respondents had sufficient accommodation available to them and, therefore, the essential requirement of the landlord having no other reasonably suitable accommodation was not satisfied. According to the Petitioners, this aspect assumes greater significance in view of the subsequent events brought on record, which demonstrate that the accommodation available with the Respondents was sufficient for their residential requirements and, consequently, contradicts the *bona fide* requirement as pleaded in the eviction petition.

18. It would further be submitted that the subsequent events, particularly those brought on record by way of CM APPL. 42644/2018, ought to have been duly considered while examining the continued existence of the alleged *bona fide* requirement.

19. Learned counsel would contend that the subsequent circumstances demonstrate that the accommodation available with the Respondents was substantially more than what was required for the members of the family and that the subsequent developments materially altered the circumstances in which the eviction order came to be passed.

20. Learned counsel would also contend that the learned ARC failed to appreciate the aforesaid aspects in their proper perspective and proceeded to accept the case of *bona fide* requirement without adequately considering the material placed on record by the Petitioners. It would be submitted that the findings returned in the Impugned Order are therefore contrary to the record and suffer from material infirmity warranting interference by this Court in exercise of its revisional jurisdiction.

21. Learned counsel would further submit that the learned ARC has failed to appreciate the rival contentions in their correct perspective

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and has arrived at conclusions which are not borne out from the material on record. It would be contended that the Impugned Order suffers from non-application of mind and erroneous appreciation of the facts and circumstances of the case.

22. Learned counsel would accordingly pray that the Impugned Order be set aside and the eviction petition filed by the Respondent be dismissed.

23. ***Per contra***, learned counsel for the Respondents would support the Impugned Order and submit that the present Petition is devoid of merit. It would be contended that the submissions advanced by the Petitioners before this Court are, in substance, a reiteration of the contentions which were already urged before the learned ARC and duly considered while passing the Impugned Order.

24. Learned counsel would submit that the jurisdiction exercised by this Court under the revisional jurisdiction does not extend to a re-appreciation or re-assessment of the evidence merely because the Petitioners seek to canvass another view on the material already considered by the learned ARC. It would be contended that the Petitioners have failed to demonstrate any jurisdictional error, material irregularity or patent infirmity in the decision-making process of the learned ARC warranting interference in the present proceedings.

25. Learned counsel would further submit that the learned ARC has duly considered the pleadings and material placed before it and has returned findings on the issue of *bona fide* requirement after appreciating the circumstances of the case. It would be contended that no error apparent on the face of the record or any perversity in the findings of the learned ARC has been demonstrated by the Petitioners.

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26. Learned counsel would also submit that the subsequent events relied upon by the Petitioners do not, by themselves, warrant interference with the Impugned Order and that the Petitioners cannot seek to reopen the findings already returned by the learned ARC merely by relying upon subsequent circumstances.

27. It would further be contended that the conduct of the Petitioners is also relevant, particularly in view of their failure to comply with the directions of this Court regarding payment of user and occupation charges. Learned counsel would submit that the Petitioners have not paid the amounts directed by this Court, while simultaneously seeking to assail the entitlement of the Respondents and the findings concerning the premises. According to the Respondents, such conduct is inconsistent with the stand now sought to be advanced by the Petitioners.

28. Learned counsel would accordingly submit that the Petitioners have failed to establish any ground warranting interference with the Impugned Order. It would be contended that the findings of the learned ARC are based on the material available on record and do not suffer from any jurisdictional error or material irregularity.

29. Learned counsel would, therefore, pray that the present Petition be dismissed and the Impugned Order be upheld.

30. No other submissions were advanced on behalf of either party.

ANALYSIS:

31. This Court has heard learned counsel appearing on behalf of the parties and, with their able assistance, perused the Impugned Order as also the material placed on record.

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32. 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 25-B(8) of the DRC Act.

33. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***[6], ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***[7], and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***[8], 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.

34. 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.***[9], and ***Sanjeev Hiranandani v. Sunny Grover***[10].

35. 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

[6] (1998) 8 SCC 119
[7] (2014) 9 SCC 78
[8] (2022) 6 SCC 30
[9] 2024:DHC:9322
[10] 2025:DHC:11285

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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."

36. 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.

37. 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

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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.

38. 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. The Impugned Order, which forms the basis of the present challenge, is extracted hereinbelow:

> "1. By this Order I shall decide the application moved on behalf of respondents No.l & 2 seeking leave to defend in respect of a petition filed U/s 14 (1) (e) r/w Section 25-B of Delhi Rent Control Act (hereinafter referred to as the "***DRC Act***") by the petitioner, interalia seeking eviction of respondents from the entire ground floor of property/premises bearing No.C-109, Greater Kailash-I, New Delhi, as shown in-red colour in the site plan filed by the petitioner and attached with the petition (hereinafter referred to as the ***"tenanted suit premises***"), on the ground of ***bonafide requirement*** of the same for his residence vis-a-vis residence of his family members.
>
> 2. The facts of the case, succinctly stated and as borne out from the record are that petitioner has claimed himself to be owner & landlord of property/premises bearing No.C-109, Greater Kailash-I, New Delhi, admEasuring about 300 sq.yards. The said property comprises of ground floor, first floor, barsati floor and mezzanine floors. The ground floor of the aforesaid premises, i.e the tenanted suit premises is stated to be consisting of three bedrooms with attached toilets having one ceiling fan each, one drawing-cum-dining room (having three ceiling fans), one kitchen, one mezzanine room (excluding loft), front and back courtyard and car parking space under canopy except one small store under the staircase. It has been the case of petitioner that tenanted suit premises was originally let out on rent for "residential purpose" to one Shri Balwant Singh vide Agreement dated 01.07.1973. Said Shri Balwant Singh expired on 09.08.1983 and after his death, the tenancy qua the tenanted suit premises devolved upon his legal heirs, yiz., his widow Smt. Jaswant Kaur, two sons namely Shri Santokh Singh and Shri Harbans Singh and his two daughters

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namely Ms. Joginder Kaur and Ms. Deesh Kaur. Except Smt Jaswant Kaur and Shri Santokh Singh (widow & son respectively of Late Shri Balwant Singh) all the other legal heirs of Late Shri Balwant Singh abandoned their rights qua the tenanted suit premises. Smt. Jaswant Kaur expired in the year 1984 and thereafter the tenanted suit premises came to be occupied by Shri Santokh Singh, his wife Smt. Mahinder Kaur (respondent No. 1 herein), their son Shri Pritpal Singh (respondent No.2 herein) and daughters Ms.Neeru and Ms.Renny (respondent No.3 herein). It has further been the case of petitioner that Ms.Neeru and Ms.Renny after their marriage left the tenanted suit premises, but later on respondent No.3 Returned with her husband namely Shri Ravinder Pal Singh (respondent No.4 herein) for temporarily staying with respondents No.l & 2. It has further been the case of petitioner that respondents No.l & 2 without his permission has unauthorizedly inducted respondents No. 3 & 4 into the tenanted suit premises and they (respondents No.l & 2) have started shifting out to their newly built premises at F-79/7, Sainik Farms, New Delhi.

3. The details of construction existing at the different floors of the premises in question (as stated by the petitioner) is enumerated as under:

S.No.	***Floors***	***Details/Extent of Accommodation***
1	Ground Floor	a) Dining-cum-Drawing Room : 01 b) Bed Rooms (each with attached bathrooms): 03 c) Kitchen : 01 d) Open back courtyard & lawn in front
2	First Floor	a) Dining-cum-Drawing Room : 01 b) Bed Rooms (each with attached bathrooms): 03 c) Kitchen : 01
3	Barsati Floor	a) Barsati : 01 b) Kitchen : 01 c) Toilet : 01 d) One temporary servant room with tin shed roof and attached lavatory : 12'x12'
4	Mezzanine Floor	a) Consisting of one room between ground floor & first floor b) Consisting of one room between first floor & barsati floor c) Consisting of one room on the barsati floor *NB: Each room is stated to be admeasuring 10"x8.3" with height of 7.5"*

4. As regards the family constitution of petitioner and the extent of occupation qua the premises in question, it has been the case of

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petitioner that his family consists of himself, his son Shri Rajan Varma, his daughter-in-law namely Smt. Madhu Reeta Varma, four married daughters, grandson Dr. Rochak Varma and grand daughter Ms. Rashi Varma. As far as the extent of occupation qua the premises in question by the family members of petitioner, same is tabulated as under.

S.No.	***Details of Occupation***
1	First floor is stated to be in occupation of petitioner, who alongwith his son Shri Rajan Varma, his wife Smt.Madhu Reeta Varma, grandson Dr.Rochak Varma and grand daughter Ms.Rashi Varma is stated to be residing therein.
2	Barsati floor is stated to be given on rent w.e.f May' 2005 to two ladies namely Ms.Tonikali Yephoni (of Dimapur, Nagaland) and Ms.Lal Rosangi Kutangte (of Aizwal, Mizoram) at a monthly rent of Rs.6,500/-.

5. U/s 14(l)(e) of DRC Act, it has been the case of petitioner that his son Shri Rajan Varma (aged about 58 years) is a qualified civil engineer, who after taking voluntary retirement from M/s Engineers India Limited has been practising as "consultant" from the premises in question, whereas his grandson Dr. Rochak Varma, who is M.D has been doing medical consultancy from the said premises. The petitioner has further averred that his four married daughters also frequently visit him at the premises in question. It has been the case of petitioner that considering his age, status, educational background and the need of his family members, who are dependent upon him for their residential accommodation, his minimum bonafide requirement for residence is as under:

S.No.	***Details***	***Accommodation Needed***
1	For petitioner	Two rooms (one as bedroom + one for consultancy and study)
2	Shri Rajan Varma and Smt.Madhu Reet Varma (son & daughter-in-law of petitioner)	One room as bedroom + one room for consultancy work of Shri Rajan Varma
3	Dr.Rochak Varma (grandson of petitioner)	One room as bedroom + one room for consultancy
4	Ms.Rashi Varma (grand daughter of petitioner)	One room as bedroom
5	Dining & drawing rooms	Two in number
6	Kitchen	One in number
7	Toilets	Seven in number
8	Store	Two in number

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S.No.	*Details*	*Accommodation Needed*
9	Puja Room	One in number
10	Guest Room (for relatives and guests)	One in number

Whereas, as per petitioner at present he is only having the following accommodation available with him.

S.No.	*Accommodation*	*Available*	*Required*	*Shortage*
1	Bedrooms	3	7	4
2	Consultancy Rooms	Nil	3	3
3	Dining/Drawing Room	1	2	1
4	Toilet	3	7	4
5	Kitchen	1	1	Nil
6	Store	2	3	1
7	Puja Room	1	1	Nil

As regards the three rooms available on the mezzanine floor, the petitioner has stated that each of them is 10 ft. x 8.3 ft. having a height of 7.5ft. and as such, none of them is habitable. Therefore, one of them is being used as puja room and the other two are being used as store rooms. Thus, it has been the case of petitioner that he bonafidely requires the tenanted suit premises and if the same is made available to him then it will considerably reduce the extreme hardship which he and his family members have been facing on account of acute shortage of accommodation.

6. Notice of the eviction petition was served upon the respondents on 28.10.2005, pursuant whereto only respondents No.l & 2 have filed a joint/consolidated application for leave to defend, duly accompanied by their respective affidavits in terms of the provisions of Section 25-B of DRC Act on 25.11.2005.. It is a matter of record that respondents No.3 & 4 neither put any appearance in the matter at any point of time nor any leave to defend application was filed on their behalf. It is further a matter of record that vide order dated 21.11.2015, my Ld. Predecessor was pleased to pass eviction order against the respondents qua the tenanted suit premises on the ground that since they had refused to receive the summons sent in terms of ScheduIe-III of DRC Act, therefore, the same was held as a valid service U/o 5 rule 17 CPC vis-a-vis the respondents having not sought any leave despite lapse of 15 days. Aggrieved by the order dated 21.11.2015, the respondents No.l & 2 herejn preferred an appeal against the same before the Hon'ble High Court of Delhi, being CRP No.66/2006 & 67/2006, titled as, "Mahinder Kaur & Anr. V/s O.P Varma". Vide order dated 16.05.2006, the Hon'ble High Court of Delhi was pleased to allow the said appeal, consequently order dated

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21.11.2005 was set aside with a direction to this Court to dispose off the leave to defend applications of respondents No.l & 2 on merits. Following has been stated by respondents No.l & 2 in their leave to defend application:

Relationship between the parties & status of petitioner qua the property in question:

(a) The landlord-tenant relationship between the parties qua the tenanted suit premises has been admitted by respondents No.l & 2. It has also been admitted by them that petitioner is the owner of premises in question.

(b) It has further been admitted that the premises in question consists of ground floor, first floor, mezannine floor and second floor (barsati floor). It has further been admitted by them the tenanted suit premises consists of three bedrooms, one drawing-cum-dining rooms with toilets and a kitchen;

(c) It has further been admitted that the family of petitioner consists of himself, his son Shri Rajan Varma, daughter-in-law Smt.Madhu Reeta Varma and two grandchildren.

(d) The factum of subletting the tenanted suit premises by respondents No.l & 2 to respondents No.3 & 4 has been categorically denied by them and instead it has been stated that the same is in their possession. Instead, it has been stated that respondents No.3 & 4 are living at their residence at F-79/7, Sainik Farms, New Delhi.

Averments qua "bonafide requirement of petitioner":

(e) It has been categorically stated that except the ground floor of premises in question, all the other accommodation(s), consisting of entire first floor, entire second floor and two mezzanine floors is available with the petitioner, which consists of seven rooms (each of which is stated to be admeasuring 10'x9') and five rooms (each of which is stated to be admeasuring 12'xl2') and thus the accommodation available with the petitioner and his family members is "quite sufficient" and there is no need of further accommodation vis-a-vis his need qua the tenanted suit premises is not bonafide at all;

(f) It has been further stated that as far back as in May, 2005 the petitioner had let out on rent the second floor of premises in question to two foreigners at a monthly rent of Rs. 15,000/- and the said factum shows that petitioner had no requirement of tenanted suit premises and if he had any such requirement, then he has miserably failed to explain as to why he/petitioner let out the said portion on rent.

(g) It has been categorically denied that the children of petitioner are financially or otherwise dependent upon him. It has been specifically pleaded by respondents No.l & 2 that Shri Rajan Varma (son of petitioner) and his wife owns separate residential accommodation, whereas the grand son of petitioner namely Dr. Rochak Varma is settled abroad. As regards the four daughters of petitioner, it has been the case of respondents that all of them are

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married and two of them are settled abroad, which itself shows that petitioner has no requirement of the tenanted suit premises.
(h) It has further been pleaded that the petitioner's claim that he requires one room for his consultancy is devoid of any merits, as he is an old man of 85 years and mostly remains unwell and thus is not in a position to do any work.
(i) As regards the requirement of petitioner qua one room for his son Shri Rajan Varma for carrying out "consultancy services", it has been the case of respondents No.l & 2 that the said requirement of petitioner is incorrect and malafide as Shri Rajan Varma mostly remains out of home and his wife is a working lady.
7. The petitioner filed reply to the leave to defend application, of respondents No. 1 & 2, interalia vehemently denying the points/grounds raised by the said respondents therein and reiterating the ones made by him in the petition. It has been denied by the petitioner that there are two bedrooms admeasuring 12' x l2' on the barsati floor (second floor) of premises in question and claimed that there is only one bedroom. It has been clarified by the petitioner that one temporary servant rooms with tin shed roof, which was earlier in occupation of his servant has been malafidely referred as "bedroom" by respondents No.l & 2. The petitioner further categorically denied that he has seven rooms admeasuring more than lO'x 9' and five rooms admeasuring 12' x 12' at his disposal. As regards, Dr. Rochak Varma (grandson of petitioner), it has been specifically stated by the petitioner that he had gone to London (U.K) on 25.08.2005 for MRCP examination on a temporary visa for six months and he has now duly returned to India and presently employed with Holy Family Hospital, Okhla, New Delhi. The petitioner has though admitted that his son Shri Rajan Varma and his wife Smt.Madhu Reeta Varma separately owns a residential accommodation at Mayur Vihar, Phase-II, Delhi, but it has been the case of petitioner that the said property is located at a distance of 18 K.Ms from the premises in question and currently lying occupied by tenant(s), however, considering his old age of 85 years his aforesaid only son out of natural love and affection wants to live with him/petitioner to take care of him at the fag end of his life. It has further been stated by the petitioner that since he is aged about 85 years and his son Shri Rajan Varma is aged about 60 years and suffering from orthopaedic ailment, so both of them did not wish to liye on second/barsati floor of premises in question and the same has accordingly been let out on rent.
8. Respondents No.l & 2 filed rejoinder to the reply of petitioner, interalia reiterating the contentions put forth by them in the leave to defend application.
9. Before proceeding further in the matter, it is pertinent to mention about certain material developments in the case, which are as under:

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(i) During the course of proceedings, petitioner Shri O.P Varma expired on 02.02.2007 and accordingly an application U/o 22 Rule 3 CPC r/w Section 151 CPC was filed by son of deceased petitioner namely Shri Rajan Varma, interalia requesting for substitution of his name in place of deceased father. The said application was allowed vide order dated 02.08.2007, subject to applicant/Shri Rajan Varma filing the GPA in his favour executed by the other LRs of deceased petitioner. The said CPA was filed by Shri Rajan Varma in the Court on 30.09.2010.

(ii) Further, during the course of proceedings respondent No.l namely Smt. Mahinder Kaur also expired, but since her LRs were already on record (being respondents No.2 to 4 & respondents No.3 & 4 have chosen not to contest the present petition), so vide order dated 03.03.2012 said factum was taken on record. (NB.' It is a matter of record that till date no amended memo of parties has been filed in the instant case by any of the parties).

10. I have heard Ms. Supriti Roy, advocate, learned counsel for the petitioner and Shri Ankur Gosai, advocate, learned counsel for respondents No.l & 2 at length and have carefully, gone through the entire material on record. 1 have also considered the case law(s) cited by both the parties in support of their respective contentions, which I will advert to in the later part of this order.

11. At the outset, it may be mentioned that it has now been well settled that in order to obtain leave to defend the eviction petition, the tenant is required to file affidavit disclosing such facts, which would disentitle the landlord from obtaining the eviction order. Such facts must be material and substantial and they must be bonafide. Further, it has to be seen that allegations of facts are not meant to delay the disposal of the eviction petition. It is also well settled that mere denials for the sake of denials are not grounds in the eyes of law and if there is no grounds against pleas, eviction order has to be passed against the tenant, whereas if the facts disclosed by the tenant in his affidavit raise triable issues, then he is entitled for the grant of leave to contest the eviction petition.

12. Clause (e) of proviso to Sub-section (1) of Section 14 of the DRC Act postulates four conditions which must be satisfied:-

(i) That the landlord must be the owner of the property;

(ii) The premises must have been let out to tenant;

(iii) The premises must be required bonafide by the owner for occupation for himself or for any of his family members dependent on him and;

(iv) Non-availability of the any other reasonably suitable accommodation for the said purpose with the landlord.

13. It is settled law that when the questions raised in the leave to contest application can be decided on the basis of affidavits and documents filed in the case, then no triable issue arises requiring evidence, as has been held by the Hon'ble High Court of Delhi in case reported as, "**2008 RLR 637" titled as, "Raghubir Chand Dhawan V/s- Vijay Kumar**".

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14. Jt is further settled position in law that the purport of the summary procedure prescribed U/s 25 B of the Rent Control Act and is to avoid trial necessarily in cases for eviction, on the ground of personal requirement of premises. The onus has been placed on the tenant to show to the Controller such facts, which if proved in trial would disentitle the landlord to an order of eviction on the said grounds. In a given case, the tenant may, in the application for leave to defend raise pleas disputing the claim of the petitioner. The said pleas may not necessarily require trial. Merely, because pleas have been raised and which if successful may disentitle the landlord from an order of eviction would be no ground to grant leave to contest, if the pleas are such which do not require any trial. The Controller is then required to proceed to decide the said pleas at the stage of considering the application for leave to contest itself. ***If the Controller grants leave to contest merely because pleas have been raised even though not requiring trial, the same would negate the purpose of summary trial***. Section 25 B (5) of DRC Act requires the Controller to give to the tenant leave to contest, if the affidavit of the tenant declares such "facts" as would disentitle the landlord from obtaining an order of eviction U/s 14 (1) (e) of DRC Act. The intent is that "facts" would require to be proved. However, if what is disclosed is a legal defence or a legal plea, not required to be proved, the same has to be adjudicated immediately and decision of such plea is not to be deferred by granting leave to contest to the tenant (Reference case reported as, "***166 (2020) DLT 443***", titled as, "***Tahira Begum V/s Sumitar Kaur & Anr***.").

15. It is further settled law that the test to determine whether the tenant has raised a triable issue is to examine whether the landlord would fail in his attempt to evict the tenant, if the defence of the tenant, as disclosed is established. Leave to defend cannot be granted to a tenant merely for the asking. When the Controller examines the defence raised by the tenant, in his application seeking leave to defend, it cannot be said that he conducts a pre-trial. Obviously, the Controller is required to value the defences disclosed by the tenant at the time of consideration of the tenant's application. Without such examination, he possibly cannot arrive at the conclusion whether the defence discloses a triable issue or whether the defence is frivolous (Reference case reported as, "***2008 Vol. 6 AD (Delhi) 103", titled as, "T.B Jain V/s Savita Ravi & Ann***").

16. It is further settled law that the test to see whether the tenant has raised triable issues is not of the tenant having controverted/denied the claim of the landlord and thus disputed question of fact arising. The test is to examine pleas of facts and then to determine the impact thereof. A heavy burden lies on the tenant to prove that the requirement of the landlord is not genuine. The tenant is required to give all the necessary facts and particulars supported by documentary evidence, if available, to prove his plea in the affidavit itself, so that the Controller will be in a position to

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decide the question of genuine or bonafide requirement of the landlord; mere assertion of the tenant would not be sufficient to rebut the strong presumption in the landlord's favour that his requirement of occupation of the premises is real and genuine (ref case reported as, "***167(2010)DLT80"Mtd 218,"Swaran Dass Banerjee V/s Ram Prakash***").

17. In this backdrop of the aforesaid legal propositions, now I propose to deal with the contentions raised by respondents No.l & 2 in the leave to defend application.

18. ***Relationship between the parties and status of petitioner:***

The respondents No. 1 & 2 in the entire leave to defend application has nowhere disputed the landlord-tenant relationship between the parties and the petitioner being owner/landlord of the property in question.

19. Now coming to the most important point of this litigation, i.e ***Whether the need of the petitioner to have the tenanted suit premises is bonafide or otherwise.***

The learned counsel for respondents No.l & 2 has argued that the said respondents have been able to raise various "triable issues" in the leave to defend application and the need of the petitioner qua the tenanted suit premises is not at all bonafide. He has build his entire castle of arguments around the factum that admittedly the petitioner had expired on 02.02.2007 and therefore, his requirement qua two rooms (one bedroom + one room for consultancy) now ceases to exist. In this regard, his legal submissions has been that it is always necessary till the decree of eviction is passed that the landlord should satisfy that his need is bonafide and the need subsists. In a case where the need is available at the time of filing of the petition, but at the time of granting decree it may not continue to subsist for any reason and to be specific on account of the death of petitioner, so the decree for eviction could not be passed. In this regard, he has taken shelter of the law laid down in the following judgments:

(i) **Civil Appeal No.565/2005, "Seshambai (Dead) Through L.Rs V/s Chelur Corporation Chelur Building & Ors**.", decided on 17.02,2010 by the Hon'ble Supreme Court of India;

(ii) **RC Rev.No.543/2011**, titled as, "**Vinod Ahuja V/s Anil Bajaj & Anr**.", decided on 20.09.2012 by the Hon'ble High Court of Delhi;

(iii) **RC Rev.No.251/2011**, titled as, "**Harsh Sabharwal V/s Sheetal Prasad Jain**", decided on 13.09.2012 by the Hon'ble High Court of Delhi and;

(iv) Case reported as, "**JT 2001(10) SC426",** titled as, "**Kishan Chand V/s Jagdish Pershad & Ors.**"',

20. He has further argued that even if the averments of deceased petitioner are taken be correct on their face value, then admittedly he had three bedrooms with attached toilets, one dining room, one kitchen, two store rooms and one puja room available with him at the first floor of premises in question at the time of filing of instant

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petition and if it is assumed that shri Rajan Varma (son of deceased petitioner) along with his wife and two children are residing and working from the premises in question, then the said accommodation available at the first floor of premises in question is more than sufficient for decent living of aforesaid four persons vis-a-vis carrying out consultancy services by Shri Rajan Varma and his son Dr.Rochak Varma. His next limb of arguments has been that admittedly Shri Rajan Varma & his wife, who are owners of a residential accommodation at Mayur Vihar, Phase-II, Delhi would have very well used the same for their residence and instead they have chosen to rent out the same. Connected with the aforesaid, his further arguments has been that if the deceased petitioner had any so called bonafide requirement, then he/deceased petitioner should not have not let out two rooms on the second floor/barsati floor on rent to the two ladies. So, the deceased petitioner can be held to be guilty of creating "***paucity of accommodation***" with the oblique motive to throw the respondents out of ***tenanted suit premises***.

21. He has further argued that all the four daughters of deceased petitioner are married, out of which two are admittedly settled abroad and now with the death of petitioner it is highly improbable that they would now visit the premises in question.

22. I am afraid none of the aforesaid arguments come to the rescue of respondents in the present case. I do not find any substance in the arguments of learned counsel for respondents No. 1 & 2 that since the petitioner Shri O.P Varma had expired, therefore, the bonafide need ceases to exist qua the ***tenanted suit premises*** for his L.Rs, for the simple reason that if we minutely peruse the entire petition then it is noticeable that right from the inception, deceased petitioner had not only demanding the tenanted suit premises for himself, but also for his other family members, which admittedly consists of his son Shri Rajan Varma, his wife Smt.Madhu Reeta Varma and their two children. The respondents have nowhere disputed the family constitution of the deceased petitioner. Further, the respondents have also nowhere disputed that Shri Rajan Varma is not a qualified engineer or his son Dr. Rochak Varma (grandson of deceased petitioner) is not a qualified medical practitioner. The requirement of one consultancy room for each of them cannot be viewed with suspicion, as everybody has a constitutional right to earn a decent living and the respondents being tenants cannot be allowed to say that since Rajan Varma mostly remains out of premises of question, therefore he does not need any room for "consultancy services" vis-a-vis Dr. Rochak Varma (grandson of deceased petitioner) is settled abroad, so he also does not have any requirement of accommodation for residence and carrying out his consultancy services from the said premises. The respondents have miserably failed to bring any document on record to show that Dr. Rochak Varma is settled abroad or he is not residing in the premises in question or he is in possession of any other suitable

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reasonable alternate accommodation with him. The respondents No.l & 2 being merely tenants are not allowed to lecture or dictate the L.Rs of deceased petitioner to either carry out their consultancy services from the property owned by Shri Rajan Varma at Mayur Vihar or they moving/shifting to the said accommodation. Further, if the aforesaid argument is applied to the case of respondents, then it would counter their defence also, as admittedly respondent No.l Smt. Mahinder Kaur had also expired and with her expiry her need also cease to exist and now it is only respondent No.2 who remains in custody of entire tenanted suit premises. Be that as it may, it is settled law that rights and obligations of the parties get crystallized as on the date of filing of petition and any subsequent development would be irrelevant to the maintainability or continuance of proceedings after the death of original petitioner(s). Moresoever, the arguments of learned counsel for the respondents that since the petitioner had expired, therefore, it is highly improbable that his four married daughters (two of whom are stated to be residing abroad) would ever visit the premises in question does not carry any weight, as Shri Rajan Varma (who is admittedly their only brother) is presently residing therein along with his familly. Residing of any of the family member(s) abroad does not mean that the family ties got snapped and it is for the landlord to judge his/her requirements and the only thing that is to be seen is that the requirement is not fanciful. I am supported in my aforesaid view by the preposition of law laid down in case reported as, "***2004 (2) RCR***", titled as, "***Parbati Poddar V/s Brig. Jogender Singh (Retd.***)" wherein the Hon'ble High Court has been pleased to hold that "***family ties do not snap if the daughter has got married and/or the son of the family is posted out, be it abroad and it is for the landlord to judge his requirements and the only thing that it to be seen is that the requirement is not fanciful***". Taking a clue from the ***Prabati Poddar's*** case (supra), I wish to evocatively point out that "***family ties***" form the bedrock not only of our traditional Indian culture, but also of India's ancient culture which has survived for centuries while others perished. I am reminded of a famous saying by US writer Alex Haley about family ties, to quote: **"*In every conceivable manner, the "family" is link to our past and bridge to our future*."**

23. I further do not find any substance in the argument of learned counsel for respondents No.l & 2 that the deceased petitioner is guilty of creating "***paucity of accommodation***" as he during his lifetime had let out two rooms on the barsati/second floor on rent, to two ladies and that too, as far as back in May' 2005, which otherwise would have been used by him for meeting out his requirement for the Simple reason that it is the prerogative of a landlord to decide as to in which of the property he wishes to live and which property he wants to put on rent. Admittedly, the petitioner was a senior citizen even at the time of filing of instant petition and every senior citizen has a wish to reside in the ground

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floor for his maximum comfort/leisure and he need not to go upstairs every time for doing his daily chores. Be that as it may, as discussed herein above it is not for a tenant to dictate any landlord in this regard. So, the deceased petitioner cannot be held guilty of creating "***paucity of accommodation***" by any stretch of imagination. The said argument of learned counsel for respondents No.l & 2 being without any merits accordingly stands rejected.

24. Further, the two site plans filed by deceased petitioner qua the tenanted suit premises (i.e Annexure-A) and premises in question (i.e Annexure-B) has been disputed by the respondents, thereby putting question marks on their correctness. However, except for making bald averments in this regard, the respondents have not clarified as to in. what sense the said site plans are wrong, i.e whether they do not show the correct position of room(s) on either of the floors, whether some room(s) have not been shown, whether the dimensions are factually wrong and so on and so forth. However, it is a matter of record that no site plan(s) qua the premises in question has been filed on behalf of the respondents. It is settled law that when a party dispute the site plan filed by opposite party, then he/she has to file his/her own site plan to substantiate the averments in this regard, which in the present case has not been done by the respondents. As such, the aforesaid contention does not come to the rescue of respondents and same is accordingly rejected.

25. Now, let us have an analysis of the judgments filed on behalf of respondents No.l & 2 in support of their contentions. I have gone through the said judgments. In some of the said judgments, the petitioner/landlord had specifically pleaded the requirement of premises exclusively for himself, whereas in the instant case the requirement of deceased petitioner was not exclusively for himself but also for his family members, who have been residing with him till his expiry and the need of said family members still subsists. So, the aforesaid case; laws are also of no help to the said respondents, the remaining judgments are on the general principle of granting *"**leave to defend***". I have no quarrel with the ratio laid down in the rest of judgments relied upon by the learned counsel for the respondents, but I am afraid the said judgments are not applicable considering the peculiar facts and circumstances put forth by the deceased petitioner in the present case. It has nowhere been the case of respondents that the deceased petitioner was also the owner of other property(ies) in Delhi.

26. I am also conscious of the fact that the need have to be seen from the angle of landlord and not from the view point of a tenant. The tenant cannot dictate the terms for his landlord, as to how the later can adjust him without asking for eviction from the tenanted premises. The genuine desire of the landlord cannot be looked with suspicion. The landlord need not to show his need beyond reasonable doubt, as doctrine of judicial prudence cannot be applied in such cases. At the same time, this is also true that there

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is no straight jacket formula to find out the bonafide requirement. The requirement of landlord has to be examined in the facts of each case by taking into consideration status of family, the requirement pleaded and to find out whether the requirement is so fanciful, unimaginable or is mere excuse to seek rejectment of a tenant.

27. In view of the detailed discussion held herein above, I am of the considered opinion that the need/requirement qua the ***tenanted suit premises*** raised by the deceased petitioner for his family members/LRs still subsists and the same cannot be termed as ***fanciful***" by any angle. As such, the undisputed conclusion is that the respondents No. 1 & 2 have miserably failed to raise any triable issue in the leave to defend application. The leaye to defend application filed by the said respondents is accordingly dismissed.

28. Consequently, eviction order in respect of ***tenanted suit property***, i.e the entire ground floor of property/premises bearing No.C-109, Greater Kailash-I, New Delhi (as shown in red colour in the site plan, i.e Annexure-A filed by the petitioner alongwith the petition) is passed in favour of Shri Rajan Varma, one of the L.R of deceased petitioner (in view other L.Rs of deceased petitioner authorizing him/giving No Objection in his favour through their respective GPAs) and against the respondents. However, in light of Section 14 (7) DRC Act, the aforesaid eviction shall not be executable for a period of six months from the date of this order. The parties are left to bear their own costs.

29. File be consigned to Record Room after completion of necessary formalities."

39. A perusal of the aforesaid findings of the learned ARC reveal that the principal controversy before the learned ARC was whether the *bona fide* requirement pleaded in the eviction petition continued to subsist notwithstanding the demise of the original landlord, Late Shri O.P. Verma, during the pendency of the eviction proceedings. The learned ARC answered the said question in the affirmative, principally on the basis that the requirement pleaded in the eviction petition was not confined to Late Shri O.P. Verma personally, but also extended to his son Shri Rajan Varma, daughter-in-law Smt. Madhu Reeta Varma, grandson Dr. Rochak Varma and granddaughter Ms. Rashi Varma, including their stated residential and consultancy requirements.

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40. The first contention of the Petitioners is that the demise of Late Shri O.P. Verma during the pendency of the eviction proceedings brought his personal requirement to an end and that, in the absence of any specific pleading setting out an independent requirement of his legal representatives, the eviction order could not have been passed. The submission, however, requires examination in the context of the pleadings as they stood before the learned ARC.

41. The eviction petition, as noticed in the Impugned Order, did not set up a requirement exclusively for Late Shri O.P. Verma. The requirement pleaded therein expressly included the residential accommodation required by his family members, as also separate space for the consultancy activities of Shri Rajan Varma and Dr. Rochak Varma. The requirement of the family members was thus not introduced for the first time after the demise of the original landlord. It formed part of the very foundation of the eviction petition.

42. The demise of Late Shri O.P. Verma on 02.02.2007, therefore, could certainly have a bearing upon that part of the pleaded requirement which was personal to him. However, the consequence of his demise cannot be determined merely by holding that the personal requirement of the deceased landlord no longer survived. What is required to be examined is whether the requirement pleaded in the eviction petition, insofar as it related to the other members of the family for whose benefit the premises had also been sought, continued to subsist and satisfied the statutory requirement under Section 14(1)(e) of the DRC Act.

43. In this regard, the learned ARC specifically considered the effect of the demise of the original landlord. The learned ARC noted that the requirement pleaded was not exclusively for the deceased

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landlord and that the family members, including Shri Rajan Varma and Dr. Rochak Varma, had their own residential and consultancy requirements. The learned ARC further noted that the Petitioners had not disputed the family constitution pleaded by the original landlord or the qualifications of Shri Rajan Varma and Dr. Rochak Varma. On this basis, the learned ARC concluded that the requirement did not become fanciful merely on account of the demise of Late Shri O.P. Verma.

44. This Court is unable to find any jurisdictional infirmity in the aforesaid approach. The question before the learned ARC was not merely whether the deceased landlord continued to require the premises for his own use, but whether the requirement pleaded in the eviction petition, including the requirement of the family members stated to be dependent upon him for accommodation, continued to furnish a *bona fide* ground for seeking eviction. The fact that the original landlord died during the pendency of the proceedings did not, by itself, efface those aspects of the requirement which had been independently pleaded in respect of the members of his family.

45. At the same time, the observation of the learned ARC that the rights and obligations of the parties stand crystallized on the date of filing of the eviction petition and that subsequent developments would be irrelevant to the maintainability or continuance of the proceedings cannot be understood as an absolute proposition. Where a subsequent event has a material bearing upon the continued existence of the statutory ground of eviction, the same cannot be ignored merely because it occurred after institution of the proceedings. The effect of any such subsequent event, however, has to be assessed in the context of the nature of the requirement pleaded and the relief sought.

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46. The Petitioners have, in this regard, relied upon the circumstances sought to be brought on record by way of CM APPL. 42644/2018. In the said application, the Petitioners, through the affidavit of Shri Pritpal Singh, asserted that the entire first floor, barsati floor and the two mezzanine floors of property bearing No. C-109, Greater Kailash-I were in the occupation of Shri Rajan Varma and his wife and that only two persons were occupying the said portions. It was further asserted that the son of Shri Rajan Varma was residing in the United States of America and his daughter was married. On the strength of these assertions, the Petitioners contended that sufficient accommodation was already available with the Respondents and that the *bona fide* requirement for the subject premises had ceased to subsist.

47. The aforesaid circumstances, even if taken into consideration, do not by themselves establish that the requirement pleaded in the eviction petition had ceased altogether. The fact that Shri Rajan Varma and his wife were stated to be occupying portions of C-109 does not, without more, establish that the said accommodation was reasonably suitable and sufficient for all the requirements pleaded in the eviction petition. The requirement pleaded before the learned ARC was not confined merely to the number of persons physically residing in the premises. It included residential accommodation for the members of the family and space for the consultancy activities pleaded on behalf of Shri Rajan Varma and Dr. Rochak Varma.

48. Likewise, the fact that the son of Shri Rajan Varma was stated to be residing abroad or that his daughter was married cannot, in itself, conclusively establish that the family requirement stood extinguished. The learned ARC had considered the same nature of objection and had

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returned a finding that such circumstances did not, by themselves, render the pleaded requirement fanciful. Whether the changed circumstances were sufficient to alter that conclusion is a matter which would require a fresh assessment of the factual material. Such an exercise, in the absence of a demonstrable legal infirmity, does not fall within the permissible limits of the present revisional jurisdiction.

49. The second principal ground urged by the Petitioners concerns the availability of alternative accommodation. It is contended that the Respondents had sufficient accommodation available in the other portions of property bearing No. C-109, including the first floor, barsati/second floor and mezzanine portions, apart from the residential property stated to be owned by Shri Rajan Varma and his wife at Mayur Vihar, Phase-II, Delhi.

50. The statutory requirement under Section 14(1)(e) of the DRC Act is not that the landlord must establish the absence of every other accommodation in his ownership or possession. The relevant enquiry is whether there is other accommodation which is reasonably suitable for the purpose for which the premises are *bona fide* required. The question of reasonable suitability necessarily depends upon the nature of the accommodation, its location, physical characteristics, the requirements pleaded and the circumstances of the landlord and his family.

51. The learned ARC was conscious of the objection regarding the accommodation available in the other portions of C-109. The Impugned Order records that the first floor was stated to comprise three bedrooms with attached toilets, a dining-cum-drawing room and a kitchen, while the barsati floor had also been let out. The learned ARC further noticed the physical characteristics of the mezzanine

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portions and recorded that the same were of limited dimensions and height and were being used for purposes such as a puja room and storage.

52. The learned ARC also considered the objection concerning the property at Mayur Vihar, Phase-II. The explanation furnished on behalf of the original landlord, as noticed in the Impugned Order, was that the said property was situated at a distance of approximately 18 kilometres and was occupied by tenants. Thus, the learned ARC did not simply disregard the existence of the said property; it considered the explanation offered as to why the same was not being treated as reasonably suitable alternative accommodation.

53. The Petitioners would seek to invite this Court to undertake a fresh comparative assessment of the various portions of C-109 and the Mayur Vihar property and to arrive at a conclusion different from that reached by the learned ARC. However, such an exercise would necessarily involve reassessment of the size, location, physical characteristics, use and suitability of the respective accommodations. This would amount to exercising appellate jurisdiction over the factual findings returned by the learned ARC, which is impermissible in the present proceedings unless the conclusion is shown to suffer from a jurisdictional or other material infirmity.

54. The same principle would apply to the objection regarding the letting out of two rooms on the barsati/second floor. The learned ARC considered this objection and rejected the contention that the original landlord had deliberately created a paucity of accommodation. The learned ARC, *inter alia*, took into consideration the age of the original landlord and his stated preference for residing on the ground floor. Whether the said explanation was ultimately the most persuasive view

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on the facts is not the question before this Court. The relevant question is whether the learned ARC applied an erroneous legal test or returned a conclusion so unreasonable as to warrant revisional interference. No such infirmity has been demonstrated.

55. It is also relevant that the Petitioners had disputed the correctness of the site plans relied upon by the original landlord. The learned ARC noted that, despite disputing the site plans, the Petitioners had not filed their own site plan to substantiate the alleged discrepancies. This finding is essentially factual in nature. No material has been demonstrated before this Court to show that the learned ARC proceeded on a demonstrably incorrect factual premise in returning the said finding.

56. The Petitioners have also placed considerable reliance upon the subsequent events sought to be brought on record by CM APPL. 42644/2018. The said subsequent events have been noticed and considered by this Court. However, the mere fact that a subsequent circumstance exists does not, *ipso facto*, establish that the relief which was found justified by the learned ARC has necessarily become unavailable. The Court has to examine whether the subsequent circumstance is of such a nature and consequence as to fundamentally dislodge the basis upon which the requirement was found to be bona fide.

57. In the present case, the circumstances relied upon by the Petitioners principally concern the occupation of the other portions of C-109 by Shri Rajan Varma and his wife and the changed circumstances of certain members of the family. Even if the assertions contained in CM APPL. 42644/2018 are taken into consideration, they do not demonstrate that the family requirement pleaded in the eviction

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petition had ceased altogether or that the accommodation otherwise available had become, in law, reasonably suitable and sufficient for the entire requirement pleaded before the learned ARC.

58. It is, therefore, not a case where a subsequent event has completely extinguished the foundation of the eviction petition. At the highest, the subsequent circumstances relied upon by the Petitioners require a comparative assessment of the accommodation available to the Respondents and the requirements of their family. That is precisely the kind of factual reassessment which cannot be undertaken by this Court in exercise of the restricted revisional jurisdiction under the proviso to Section 25-B(8), in the absence of a jurisdictional error or perversity.

59. The learned ARC, in the Impugned Order, considered the objections concerning the demise of the original landlord, the accommodation available with the family, the Mayur Vihar property, the letting out of portions of the barsati/second floor, the physical characteristics of the mezzanine portions and the site plans. Upon consideration of the aforesaid aspects, the learned ARC concluded that the requirement pleaded in the eviction petition continued to subsist and could not be characterised as fanciful.

60. This Court is conscious that the observations of the learned ARC, particularly those relating to the irrelevance of subsequent developments and the inability of a tenant to dictate the manner in which a landlord should utilise his accommodation, are required to be understood in the context of the facts of the present case and cannot be elevated into absolute propositions of law. Nevertheless, the ultimate decision-making process adopted by the learned ARC cannot, for that reason alone, be said to suffer from a jurisdictional error. The learned

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ARC did consider the material objections raised by the Petitioners and recorded reasons for rejecting them.

61. The Petitioners have not demonstrated that the learned ARC declined to exercise jurisdiction vested in it, exercised jurisdiction not vested in it, or adopted a decision-making process contrary to the statutory framework governing an eviction petition under Section 14(1)(e) read with Section 25-B of the DRC Act. Nor has any perversity, manifest illegality or material irregularity been demonstrated in the findings returned in the Impugned Order. The challenge, in substance, seeks a re-appreciation of the factual material and substitution of the conclusion reached by the learned ARC with a conclusion favourable to the Petitioners.

62. Before parting with the matter, this Court also deems it appropriate to take note of the submission advanced on behalf of the Respondents regarding the non-payment of the user and occupation charges as directed by this Court. The Petitioners, despite being in occupation of the premises, have not complied with the directions regarding payment of the user and occupation charges. Such non-compliance with an Order of this Court cannot be viewed lightly. The Petitioners are expected to abide by the Orders passed by this Court and cannot, merely by continuing to pursue the present proceedings, seek to disregard the financial obligations arising pursuant to the Orders passed from time to time.

63. Needless to state, the observations herein are confined to the conduct of the Petitioners in relation to compliance with the directions regarding user and occupation charges and shall not be construed as forming the basis for the determination of the present Petition on merits. It is, however, made clear that the Respondents shall be at

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liberty to take such appropriate steps, in accordance with law, for enforcement and recovery of the amounts due and payable pursuant to the Orders passed by this Court.

CONCLUSION:

64. Consequently, this Court finds no jurisdictional error, material irregularity, manifest illegality or perversity in the Impugned Order warranting interference in the exercise of the revisional jurisdiction of this Court.

65. Accordingly, the present Petition, along with pending Application(s), if any, stands dismissed.

66. No Order as to Costs.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 27, 2026/jk

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