



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

% Judgement delivered on: 25.06.2025

+ **RC.REV. 171/2025, CM APPL. 32831/2025 & CM APPL. 32832/2025**

KISHAN KUMAR & ANR.Petitioners

versus

MOHD. YUNUSRespondent

Advocates who appeared in this case

For the Petitioners : Mr. Om Prakash, Mr. Prateek Gupta, Ms. Urvashi Gupta, Mr. Durgesh Gupta & Ms. Neha Garg, Advs.

For the Respondent : Mr. Anil Panwar & Mr. Tanishq Panwal, Advs.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

1. This is a revision petition under Section 25B (8) of the Delhi Rent Control Act, 1958 ('**DRC Act**') against Judgment dated 27.01.2025 ('**Impugned Judgment**') passed by the Court of ARC-02 (Central), Tis Hazari Court, Delhi, allowing the eviction of the Petitioners in RC/ARC No.12/2024 ('**Eviction Petition**').

2. The Respondent filed the Eviction Petition on 28.12.2023 against the Petitioners under Section 4(1)(e) read with Section 25B of DRC Act for eviction of the property bearing no. 2107 (old), 1468 (new), Ward no. XIV, Gali Chulhe Wali, Sadar Bazar, Delhi 110 006 ('**premises**').



3. The premises was initially owned by Sh. Banarasi Dass, who transferred the same in favour of Smt. Munni Devi through a registered gift deed dated 20.03.1927. Smt. Munni Devi transferred the premises to her daughter Smt. Nyadri through registered Will dated 17.04.1936. Smt. Nyadri bequeathed it the premises to Sh. Kishori Lal *vide* registered Will dated 22.01.1945. Sh. Mangat Ram, the father of the Petitioners took one room forming part of the premises from Sh. Kishori Lal in 1970. (**‘tenanted premises’**)

4. On 10.06.2010, the Respondent along with one Sh. Najakat Ali purchased the premises *vide* General Power of Attorney, agreement to sell etc.

5. On 26.11.2010, Sh. Najakat Ali transferred his undivided fifty per cent share in the premises in favour of the Respondent through General Power of Attorney, Agreement to Sell, Will etc. Accordingly, the Respondent became the sole owner of the premises.

6. On 28.12.2023, the Respondent filed Eviction Petition against the Petitioners in capacity as sons of Sh. Mangat Ram. Upon receipt of the summons of the Eviction Petition on 02.02.2024, the Petitioners filed an application for leave to defend on 15.02.2024.

7. On 23.03.2024, the Respondent filed reply to the application for leave to defend. On 27.01.2025, the application for leave to defend filed by the Petitioners was dismissed and the Impugned Judgment was passed.

8. Being aggrieved by the Impugned Judgment, the present revision petition has been preferred by the Petitioners.

SUBMISSIONS OF THE PETITIONERS:

9. The learned counsel for the Petitioners has submitted that the Eviction Petition was filed with ulterior motive as there was no *bona fide* requirement



of the marriage of the elder son of the Respondent as similar eviction petitions have also been filed against the other tenants of the first floor of the premises and the eviction orders have already been passed against all of them on the same date.

10. It was further submitted that the Respondent has deliberately concealed that Sh. Mangat Ram expired on 24.05.2019, leaving behind the Petitioners, his widow, who is also residing in the tenanted premises and five (5) daughters. However, the Eviction Petition was filed by the Respondent only against the Petitioners without making the other legal heirs being the mother and the sisters of the Petitioners as party to the Eviction Petition.

11. It was further submitted that the Impugned Judgment was passed contrary to the well-established law that in case of death of the tenant, all his legal heirs are necessary party and in absence of joining them, the entire legal proceedings are void *ab initio*.

12. It was further submitted that the Impugned Judgment has erroneously distinguished the judgment in case of ***Suraj Lamp & Industry Pvt. Ltd. v. State of Haryana***: AIR 2012 SC 206 relied upon by the Petitioners, which held that ruled that transfer of immovable properties executed through General Power of Attorney, Agreement to Sell or Wills are not legally valid. Further, the Impugned Judgment wrongly concludes that there was no triable issue with regard to the ownership of the Respondent and the relationship of landlord and tenant between the parties was established.

13. It was further submitted that there was no *bona fide* need of the Respondent as the eviction orders against all four tenants of the premises were passed on the ground of marriage of the elder son of the Respondent. The Impugned Judgment failed to consider that there was no *bona fide* need of the Respondent in the facts of the present case as the Respondent needed



a minimum of six rooms to fulfill the *bona fide* need as admitted in the Eviction Petition. Therefore, even after the eviction of all four tenants, *bona fide* need of the Respondent would not be satisfied.

14. It is further submitted by the Petitioners that the Impugned Judgment has been passed mechanically as the same refers to the tenanted premises as a shop, however, the same is a residential room with kitchen and common bathroom. This shows non application of mind while passing the Impugned Judgment.

15. The learned counsel for the Petitioners also submitted that since 10.06.2010 to December, 2022, there was no demand for rent by the Respondent by furnishing the proof of ownership of the tenanted premises. This clearly shows that the Respondent is not the legal owner of the tenanted premises. The ownership of the Respondent can only be proved by way of leading evidence. Hence, the Impugned Judgment summarily dismissing the leave to defend application of the Petitioners deserves to be set aside.

16. It was further submitted that prior to filing the Eviction Petition on ground of non-payment of rent, a demand notice for arrears of rent is a condition precedent. However, there was no demand notice by the Respondent prior to filing the Eviction Petition.

17. The learned counsel for the Petitioners has relied upon the orders passed against the remaining tenants on 27.01.2025, which are identical to the Impugned Judgment to submit that the Impugned Judgment has been passed mechanically and without appreciating the facts of the Petitioner.

18. The Petitioners have relied upon the case of *Manindra Land & Building Corporation Ltd. v. Bhutnath Banerjee*: AIR 1964 SC 1336 to submit that as per Section 3 of the Limitation Act, any suit instituted, appeal preferred and application made, after the period of limitation has to be dismissed irrespective of the fact whether the opponent had set up the plea



of limitation or not. Accordingly, the plea of limitation can be taken up at any stage even at the stage of appellate proceedings. Since there has been a delay from 2010 till 2022 in issuing any notice for rent by the Respondent, the Impugned Judgment deserves to be set aside.

19. The learned counsel for the Petitioners has relied upon the case of *Anshu Goyal v. Vijender Kumar Rohtagi*: 135 (2006) Delhi Law Times 615 of this Court, which held that when the landlord passed away, the legal heirs never demanded the rent from the tenant and, therefore, the tenant was not in position to deposit the rent under Section 27 of the DRC Act. Accordingly, the tenant cannot be faulted on this account. When the purchaser of the property issued a notice demanding the rent claiming to be a landlord without enclosing any document to support the plea that they had acquired the right in respect of the property, it cannot be said that anyone can suddenly start demanding rent without at least putting the tenant to notice as to how the title had been acquired.

20. It is submitted by the learned counsel for the Petitioners that the present case is similar to the facts of *Anshu Goyal* (supra) as no notice was sent by the Respondent between 2010 to 2022 with any proof of acquiring the tenanted premises by the Respondent.

21. The learned counsel for the Petitioners has relied upon the decision of Calcutta High Court in *Smt. Gita Devi Shah & Others. v. Smt. Chandra Moni Karnani*: AIR 1993 Cal 280 to submit that landlord relying on the deeds of the purchase of the tenanted premises that are not stamped, cannot be taken into consideration as a documentary evidence to proof the ownership of the premises. If the deeds are not properly stamped, they are not clearly admissible in evidence and no judicial notice of those documents can be taken.



22. The learned counsel for the Petitioners has also relied upon the decision of the Supreme Court in case of *Sushila Devi v. Avinash Chander*: 1987 Rajdhani Law Reporter (SC) 137, which held that there is acute shortage of housing accommodation in the metropolitan city of Delhi and, therefore, compelling necessity there can be no order for eviction under Section 14 (1)(e) of the DRC Act. It was held that the High Court must not adopt attitude that tenant had enjoyed the property for a long time and must quit.

23. Accordingly, the learned counsel for the Petitioners prayed for setting aside of the Impugned Judgement.

SUBMISSION OF THE RESPONDENT:

24. The learned counsel for the Respondent has submitted that there is no infirmity with the Impugned Judgment and the same has been passed after considering the facts and circumstances of the case. Along with the Impugned Judgment, there are three other identical orders passed on the same date against the remaining three tenants of the premises, which shows that the *bona fide* requirement of the Respondent was established for the eviction of the Petitioners from the tenanted premises.

25. The learned counsel for the Respondent has relied upon the decision of the Supreme Court in *Ambika Prasad v. Mohd. Alam & Anr.*: (2015) 13 SCC 13 which held that under Section 109 of the Transfer of Property Act, 1882, it is manifest that after the transfer of lessor's right in favour of the transferee, the latter gets all rights and liabilities of the lessor in respect of subsisting tenancy. Section 109 of the Transfer of the Property Act, 1882 does not insist that transfer will take effect only when the tenant attorns. It is settled law that a transferee of landlord's rights steps into the shoes of the landlord with all the rights and liabilities of the transferor landlord in respect



of the subsisting tenancy. Attornment by the tenant is not necessary to confer validity to transfer the landlord's right. Since attornment by the tenant is not required, a notice under Section 106 in old terms of lease by the transferee landlord would be proper and so also suit for ejection.

26. In view of the above, it was submitted by the learned counsel for the Respondent that the submissions made by the Petitioners that the Respondent was not the owner of the tenanted premises, are baseless as the Respondent has acquired the tenanted premises with subsisting tenancy. Hence, the Respondent was entitled to file the Eviction Petition against the Petitioners.

27. The Respondent has also relied upon the decision of the Supreme Court in case of *Suresh Kumar Kohli v. Rakesh Jain & Anr.*: (2018) 6 SCC 708, which decided the issue with regard to the status of the legal heirs of the deceased tenants as to whether they will be joint tenants or tenants-in-common. The Supreme Court has held that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenants is occupation of all the joint tenants. It is not necessary for the landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons were occupying the property, as a party. There may be a case where the landlord is not aware of the legal heirs of the deceased tenant and impleading only those heirs, who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of joint tenants is sufficient against all the joint tenants and all joint tenants are bound by the order of the eviction as joint tenancy is one tenancy and is not a tenancy split into different legal heirs.

28. In view of the above, it is submitted by the learned counsel for the Respondent that a ground of legal heirs of the father of the Petitioners being



Petitioners' mother and sisters cannot be ground for setting aside of the Impugned Judgment.

29. The learned counsel for the Respondent has relied upon a decision of this Court in *Anita Jain v. Parveen Kumar Jain*: 2023 SCC OnLine Del 22, wherein it has been held that a tenant who has been let into possession cannot deny his landlord's title, however, defective it may be, so long as he has not openly restored possession by surrender to his landlord. It is a settled law that once a tenant is always a tenant. The tenant cannot dispute the title of his landlord or his successor-in-interest since the predecessor-in-interest of the landlord had inducted the predecessor-in-interest of the tenant, the tenant is estopped from challenging the title of the landlord. Further, it is held that once the *bona fide* requirement of the landlord is established, it is not open to the tenant to insist that another property is more suitable for the requirement of the landlord.

30. In view of the above, it was submitted that it is not open for the Petitioners to challenge the title of the Respondent and the *bona fide* requirement established for eviction of the tenanted premises by the Petitioners.

ANALYSIS AND FINDINGS:

31. This Court has considered the submissions by the learned counsel for the Petitioners and the Respondent. The Respondent had filed the Eviction Petition on the ground of *bona fide* requirement of his elder son's wedding to claim the possession of the tenanted premises. According to the Respondent, a minimum of six rooms were required by the Respondent as a part of the *bona fide* requirement as there was no other reasonable suitable accommodation available to the Respondent to fulfill the need of himself



and his family members, who are dependent upon him for purpose of residence.

32. In the application for leave to defend filed by the Petitioners, the Petitioners had challenged the relationship between the Petitioners and the Respondent as of landlord and tenant without any proof of ownership of the premises by the Respondent. It is a settled law that tenant has no right to challenge the ownership of the landlord as held in the catena of judgments that are relied upon in the case of *Anita Jain* (supra).

33. The Petitioners have also averred in the leave to defend application that the Petitioners had never paid any rent or deposited any amount to the Respondent, which shows that there existed no relationship of landlord and tenant between the Respondent and the Petitioner. Such an averment by the Petitioners is not tenable as by admitting non-payment of rent, the Petitioners is not entitled to continue the possession of the tenanted premises.

34. Further, the ground of limitation and delay in issuing notice demanding the rent by the Respondent is also not tenable in view of the decision of *Ambika Prasad* (supra).

35. The ground of non-joinder of the legal heirs of the Respondent's father cannot be the basis for setting aside of the impugned order in view of the law laid down in case of *Suresh Kumar Kohli* (supra).

36. The ground that even after vacating all the four rooms of the premises, the *bona fide* requirement of the Respondent will not be satisfied as the Eviction Petition mentions about requirement of a minimum of six rooms is not acceptable. The Petitioners cannot object to the eviction of the tenanted premises on the ground of suitability of the premises as held by this Court in case of *Anita Jain* (supra).



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37. In view of the above, there is no infirmity with the Impugned Judgment. Accordingly, the present Revision Petition is dismissed. No order as to costs.

JUNE 25, 2025 / 'A'

TEJAS KARIA, J

[Click here to check corrigendum, if any](#)