



2026:DHC:445



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

*Reserved on: 15<sup>th</sup> January, 2026*  
*Date of Decision: 19<sup>th</sup> January, 2026*

+ **CM(M) 849/2025, CM APPL. 27316/2025 & CM APPL. 27317/2025**

JAI PARKASH

.....Petitioner

Through: Mr. Rajeev Verma and Mr. Himanshu  
Sharma, Advocates.

versus

SATPAL LUTHRA

.....Respondent

Through: Mr. Amit Singh Tanwar, Advocate.

**CORAM:****HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****ORDER**

1. The present petition has been filed by the Petitioner under Article 227 of the Constitution of India assailing the order dated 17<sup>th</sup> January, 2025 (hereinafter referred to as the "*Impugned order*") passed by the trial court in case bearing no. 2 RC ARC 933/16, whereby the application filed by the respondent under Section 14(1)(e) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the '*DRC Act*') has been disposed of as withdrawn.

2. Learned counsel for the petitioner submits that the impugned order has been passed on the basis of surmises and conjectures and is against the law. The respondent has withdrawn the application in a deceitful manner by misusing process of law, as the same was likely to be dismissed. The application had reached the stage of the evidence and was withdrawn



without disclosing any justified reasons. It is further submitted that the impugned order violates the principles of natural justice inasmuch as no application under Order XXIII Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') was filed on behalf of the respondent for the withdrawal of his application. On these grounds, it is prayed that the impugned order be set aside.

*Per contra*, learned counsel for the respondent has argued that the impugned order is well reasoned. There is no illegality or infirmity in the impugned order. The arguments of the petitioner are without any merit and the petition is liable to be dismissed.

3. The operative portion of the impugned order is reproduced as under:

*“8. Further, the judgments placed by Ld. Counsel for the respondent do not pertain specifically with respect to the proceedings under Section 14(1)(e) of the DRC Act. Therefore, they are not applicable in the facts of the present case. Further, during arguments, Ld. Counsel stated that the present suit suffers with a technical defect on account of which Ld. Counsel for the petitioner is withdrawing the present petition. It is not the case if the present case is disposed off on account of a technical defect, there is any bar on the petitioner to file a fresh suit after removing those technical defects. Hence, considering the above discussion, the present application filed under Section 14(1)(e) of DRC stands disposed of as withdrawn. File be consigned to record room after due compliance.”*

4. The Hon'ble Supreme Court in the case of **N. R. Narayan Swamy vs B. Francis Jagan 2001 (6) SCC 473** has observed as follows:

*“9. The next question would be whether Order XXIII Rule 1 sub-rule (4) CPC is applicable to the facts of the present case. Sub-rule (4) reads thus:-*



*(4) Where the plaintiff:*

*(a) abandons any suit or part of claim under sub-rule (1),  
or*

*(b) withdraws from a suit or part of a claim without the  
permission referred to in sub-rule (3),*

*he shall be liable for such costs as the Court may award and  
shall be precluded from instituting any fresh suit in respect of  
such subject-matter or such part of the claim.*

*10. The aforesaid rule would have no application in a  
proceeding initiated for recovering the suit premises on the  
ground of bona fide requirement which is a recurring cause.  
Order XXIII rule 1(4)(b) precludes the plaintiff from  
instituting any fresh suit in respect of such subject matter or  
such part of the claim which the plaintiff has withdrawn. In a  
suit for eviction of a tenant under the Rent Act on the ground  
of bona fide requirement even though the premises remains  
the same, the subject matter which is cause of action may be  
different. The ground for eviction in the subsequent  
proceedings is based upon requirement on the date of the  
said suit even though it relates to the same property.”*

5. Since the respondent has filed the application for eviction of the petitioner from the tenanted premises on the ground of bona fide requirement, in view of the law laid down in the aforesaid judgment, the provisions of Order XXIII Rule 1 of CPC are not applicable to the present eviction proceedings.

6. Learned counsel for the petitioner has failed to show any provision under the DRC Act which bars the respondent from withdrawing the eviction application. In the absence of any such statutory provision, no infirmity can be found in the withdrawal of the said application by the respondent.

7. In view of the foregoing discussions on facts and law, this Court does



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not find any infirmity or illegality in the impugned order and it is upheld as the same is a reasoned order passed in accordance with law. Accordingly, the petition stands dismissed as being devoid of merits, alongwith pending application(s), if any.

**RAJNEESH KUMAR GUPTA  
JUDGE**

**JANUARY 19, 2026/MR/ik**