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

Date of Decision: 03rd April 2025

\+ RC.REV. 120/2025 & CM APPL. 19475/2025, CM APPL. 19476/2025

NARBADA DEVI .....Petitioner

Through: Mr. Pradeep Kumar Arya, Mr.Gaurav Chaudhary, Mr. Rishabh Malhotra, and Mr. Rishabh, Advocates.

versus

KULDEEP KUMAR JAIN .....Respondent

Through: Mr. Shiv Charan Garg, Advocate.

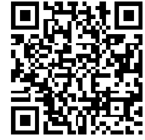
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under section 25-B(8) of the Delhi Rent Control Act, 1958 ('DRC Act'), the petitioners/tenants seeks setting-aside of judgment dated 03.07.2024 passed by the SCJ-cum-RC, Tis Hazari Courts, Delhi, whereby an eviction order has been passed in favour of the respondent/landlord in respect of shop No.4281, Main Bazar, Paharganj, Delhi; the petitioners also impugn order dated 01.03.2025 dismissing the review application filed against judgment dated 03.07.2024. For clarity, it may be recorded that the original tenant/Narbada Devi having deceased, the present petition was filed by her legal representatives, namely her two sons.

2. Mr. Pradeep Kumar Arya, learned counsel for the petitioners submits, that the respondent had deliberately concealed the availability of



suitable, alternate accommodations with him, *viz.* No. 4279-4283, Main Bazar Paharganj, New Delhi and No. 32, Main Bazar, Paharganj, New Delhi, on which ground alone the eviction petition was liable to be dismissed.

3. Mr. Arya draws attention of this court to written statement dated 13.05.2019 filed by the petitioners, in which this fact was specifically pleaded; and submits, that while passing the impugned judgment the learned Rent Controller has failed to appreciate that the respondent is guilty of intentional concealment and non-disclosure of the alternate accommodation available with him.

4. Issue Notice.

5. Mr. Shiv Charan Garg, learned counsel for the respondent appears on advance copy; accepts notice; and submits, that the learned Rent Controller, after taking note of all the alternate premises that were subject of the proceedings has returned individual findings *qua* each of them in the impugned judgment. It is pointed-out that the premises that were subject matter of the eviction petition was Shop No. 4281, Main Bazar, Paharganj, Delhi, which is the ground floor shop on a 30 ft. road in the commercial hub of Delhi, *i.e.* Paharganj. The learned Rent Controller observed as follows :

> "*49. Qua the alternate accommodations, the respondent has argued that the following properties are available with the petitioner:-*
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> *i) Property No. 4283, Main Bazar, Pahar Ganj, New Delhi.*
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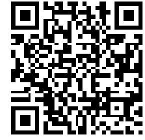
> *ii) Portion of property No.4280, Main Bazar, Pahar Ganj, New Delhi.*



iii) Property No. 9174, 3rd and 4th Floors, Gali No.4, Multani Dhanda, Paharganj, New Delhi-110055

iv) Property No.32, Main Bazar, Paharganj, New Delhi-110055

v) Property No.4277-4283, Main Bazar Paharganj, New Delhi."

Re **: Portion of property No. 4280, Main Bazar, Paharganj, New Delhi**

"*55. This Court finds no merits in the arguments of the Ld. Counsel for the respondent that since the petitioner already has back portion of property No.4280 and shop No.4283, there is no requirement of shop No.4281 i.e. the tenanted premises in question. As discussed, the tenanted premises in question is on the main road and as is apparent from the site plan, duly proved by the petitioner, shop No.4280 is on the back side of shop No.4281, having the entry through a passage. It goes without saying that a shop on main road is better both in terms of commercial viability and ease of access, it need not be said that it is more visible too. Thus, in the considered opinion of this Court, the back portion of the property No.4280 cannot be called a suitable alternative to the tenanted premises in question.*"

Re **: Property No. 9174, 3rd and 4th Floors, Gali No. 4, Multani Dhanda, Paharganj, New Delhi**

"*56. Similarly, the properties on the third and the fourth floors of property No.9174, Multani Dhanda, Paharganj, cannot be compared to the tenanted premises in question.*"

Re **: Property No. 4283, Main Bazar, Paharganj, New Delhi**

"*57. Qua property No.4283, it is an admitted case that the said property is being used for Abhay Vastra Bhandar Pvt. Ltd. and the very need of the petitioner is that the said shop is to be merged with the tenanted premises in question so as to create bigger business/commercial space for himself and his sons. The law does not permit the tenant to dictate terms nor can the tenant in the matter at hand, make choices for the petitioner so as to disentitle*

him from expansion of his business. It is settled law that the ultimate master is the landlord and he cannot be forced to sacrifice his choices only so that the tenant does not feel inconvenience."

Re **: Property No. 32, Main Bazar, Paharganj, New Delhi**

"*58. Respondent's witness Sh. Ritesh Kumar in his cross-examination on 30.11.2023 has categorically stated that there are no shops on ground floor in property No.32, Main Bazar,Paharganj and, therefore, in the considered opinion of this Court, the same cannot be compared to the tenanted premises in question, which is on the ground floor in a thirty feet road.*"

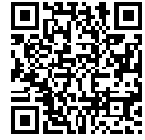
Re **: Property No.87, Krishna Gali, Paharganj, Delhi**

"*59. Similarly, qua property No.87, Krishna Gali, Paharganj also, it can be said that property on account of it being situated in not so wide lane, is not comparable to the tenanted premises in question. It may be highlighted here that in testimony of RW Ritesh, it has specifically come that the said property is not on a wide road.*"

6. Mr. Garg accordingly submits, that the learned Rent Controller reached the conclusion that the respondent has *bona-fide* need for the demised premises and there is no alternate accommodation which is reasonably suitable for him. The relevant portion of the impugned order reads as follows :

"*63. It is clear that once the landlord establishes its bonafides, the hardship of the tenant cannot be taken into consideration for declining an eviction. If it is accepted that tenancy should be protected either on the ground of long residency or because of non-availability of house with the tenant, no landlord will ever be able to get an eviction order. Even otherwise, the law contemplates a buffer period of 6 months for the tenant in which he can arrange for a shelter.*

"*64. To sum up, the concept of bonafide need or genuine requirement needs a practical approach instructed by realities of*



life. As long as the landlord is able to establish that he/she in good faith and genuinely wishes to occupy the premises in possession of the tenant and that good faith or genuineness is of a reasonable man, it would not be open to the Controller to weigh the claim of the landlord in a fine scale."

7. It is the settled position of law that the scope of interference in the revisional powers of the High Court under section 25-B(8) of the DRC Act is limited. Section 25-B(8) of the DRC Act, may be noticed at this point :

> ***25-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.—***
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> * * * * *
>
> *(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:*
>
> *Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.*

8. In its decision on section 25-B(8) of the DRC Act, in ***Abid-Ul-Islam vs. Inder Sain Dua***,[1] the Supreme Court has relied upon its earlier decisions in ***Sarla Ahuja vs. United India Insurance Co. Ltd.***[2] and ***Mohd. Inam vs. Sanjay Kumar Singhal***,[3] and has held as follows:

> "***Scope of revision***
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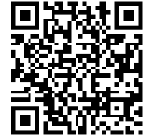
> *22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an*

[1] (2022) 6 SCC 30
[2] (1998) 8 SCC 119
[3] (2020) 7 SCC 327



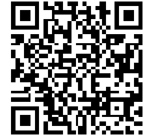
application filed under sub-section (5). ***The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.***

"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****."*

(emphasis supplied)

9. In the backdrop of the aforesaid submissions and what has come to be recorded in the impugned order, this court would notice the following facts obtaining in the present case :

9.1. That para 14 of the eviction petition bearing RC/ARC No.79575/2016 narrates that the respondent is an "*old tenant*", with no written tenancy agreement between the parties. The rent that the petitioners have been paying to the respondent is *Rs. 50/- per month* (excluding other charges). It is not clear as to when this rate of rent was agreed-to between the parties. Upon being queried, learned counsel appearing for the



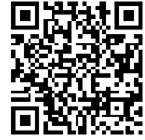
petitioners/tenants submits, that the petitioners have been a tenant in the demised premises *for about 40 years*.

9.2. That the impugned judgment has come to be passed after *leave-to-defend was granted* to the petitioners *vide* order dated 01.05.2019, with the learned Rent Controller having held that the petitioners had succeeded in raising triable issues; and consequently the parties had led evidence in the matter.

9.3. That the conclusion and inferences drawn by the learned Rent Controller as extracted above, as regards availability and suitability of alternate premises available with the respondent, are *clear conclusions and inferences of fact*; and, as per settled law, it is not within the scope of the revisional jurisdiction of this court under section 25-B(8) of the DRC Act "... *...to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction ... ...*".[4]

9.4. That it is also not permissible for this court to convert the present revisional proceedings under section 25-B(8) of the DRC Act into regular appellate proceedings, since the Legislature has specifically barred any appeal or second appeal against an order for recovery of possession made by a learned Rent Controller in accordance with the special procedure provided under section 25-B of the DRC Act.

[4] *Abid-Ul-Islam* at para 23



10. In light of the aforesaid discussion, and based on the settled position of law as referred to above, this court is satisfied that eviction order dated 03.07.2024 passed by the learned Rent Controller in the present case is according to law; and no ground of interference with that order is required.

11. The present petition is accordingly dismissed.

12. Furthermore, this court is constrained to note that the present case presents an egregious example of misuse and abuse of the salutary provisions of the DRC Act. The statute which was enacted some 67 years ago and was intended to protect certain kinds of vulnerable tenancies has been misused by the tenants (petitioners) to retain premises in a prime commercial location *for about 40 years for a less-than-pitiful rent of Rs. 50/- per month*, by canvassing wholly untenable defences and thereafter also persisting in their case. Also, the tenant has sought to dictate to the landlord as to which of the properties the landlord should use, so that the tenant can continue to occupy prime commercial premises *eternally, almost free-of-cost*. This court is left wondering as to whether the intent of the DRC Act was to postulate that a tenant who manages to occupy a premises for a long-enough time for a paltry rental, can comfortably assume to himself rights of ownership to that premises. Such a preposterous legal proposition must be firmly negated; and such tenants must face immediate eviction.

13. Needless to add, that it is now available to the respondent to adopt his remedy for execution of the eviction order since the 06-month period provided under section 14(7) of the DRC Act has already expired.
14. The petition stands disposed-of with the above observations.
15. Pending application, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J.

APRIL 03, 2025/HJ/ss