

**IN THE COURT OF MS. ANJU BAJAJ CHANDNA
PRINCIPAL DISTRICT & SESSIONS JUDGE
CENTRAL DISTRICT : TIS HAZARI COURTS : DELHI**

CNR No. DLCT01-001704-2026

RCT No. 11/2026

M/s Satya Prakash & Sons

Through its partner /proprietor Sh.Pravesh Gupta

Having its office at 1/1128, Bara Bazar, Kashmere Gate

New Delhi-110006

...Appellant

Versus

1. M/s Narain Kumar and Sons (HUF)
Through its Karta
Having is Residence at B-274, Vivek Vihar
Delhi-110095.

2. M/s Mittal Enterprises
1535, Bhagirath Palace, Chandni Chowk
Delhi-110006

...Respondents

Date of institution : 30.01.2026

Arguments heard on : 04.07.2026

Date of pronouncement : 16.07.2026

Appearance:

Sh. Kunal Kalra, Ld. Counsel for appellant.

Sh. Anunaya Mehta and Sh.Vidhan Malik, Ld.

Counsels for respondents.

ORDER:

1. The present appeal arises out of the order dated 13.08.2025 whereby petition filed under Section 19 (2) of Delhi

Rent Control Act 1958 by the tenant / appellant was rejected having been barred by law under Order 7 Rule 11 CPC.

2. The brief background of the matter is as follows:-

The tenant / petitioner filed a petition under Section 19 (2) of Delhi Rent Control Act before Ld. ARC with respect to tenanted premises i.e. shop no. 1/1115, Bara Bazar, Kashmere Gate, Delhi-110006 seeking restoration of possession / re-entering the premises. Previously, landlord M/s Narain Kumar & Sons (HUF) filed an eviction petition under Section 14 (1)(e) read with Section 25 (B) of Delhi Rent Control Act seeking eviction of tenant on the ground of bonafide requirement. The petition was contested by tenant / petitioner but the eviction order dated 05.03.2015 was passed. The revision petition was filed by the tenant / petitioner before High Court but the same was dismissed vide order dated 15.01.2016. Special leave petition bearing no. 4615/2016 was also filed before Apex Court which was dismissed on 23.02.2016. The possession of the tenanted shop was handed over by the petitioner / tenant to the respondent / landlord on 30.06.2016. It is now alleged by the tenant / petitioner that respondent did not use the premises despite obtaining eviction order on the plea of bonafide requirement and therefore application under Section 19 (2) of Delhi Rent Control Act 1958 seeking re-entry to the tenanted premises was filed. Even Local Commissioner was appointed, who in his report, clearly recorded that premises was being used by M/s Mittal

Enterprises which is a third party entity for storing and running their godown-cum-office and same is not related to the business of landlord. Subsequently, it also came to be known that respondent / landlord executed an agreement amounting to a lease in favour of respondent no.2 at rent of Rs.40,000/- per month in violation of Section 19 (2) of Delhi Rent Control Act 1958.

3. It is contended by the tenant (appellant herein) that impugned order dated 13.08.2025 dismissing the petition under Section 19 (2) of Delhi Rent Control Act has been erroneous as Ld. ARC failed to appreciate that petition disclosed a valid and continuous cause of action based on landlord's misuse and non-use of the premises. The dismissal of the petition without trial has resulted in grave miscarriage as Section 19 (2) is a remedial provision to prevent abuse of law by landlord. The judgments relied upon by Ld. ARC are not applicable. The appellant vacated the premises only pursuant to judicial orders and interpretation adopted by Ld. ARC is not valid and undermines the tenant's statutory right to seek redress against misuse of eviction order. It is prayed that impugned order be set aside.

4. Reply has been filed on behalf of respondent no.1 wherein it is disputed that impugned order dated 13.08.2025 is illegal, arbitrary and unsustainable in law. It is stated that in the light of judgment of Delhi High Court in **Jai Dev Agarwal vs Vijay Angrish 2020 DHC 304** as also in **Harjit Singh vs**

Sidhant Gupta, MANU/DE/4252/2024, the application of the appellant under Section 19 (2) was barred by law, since the appellant vacated the subject premises voluntarily after giving a specific undertaking to the Apex Court. Since the appellant voluntarily handed over the possession of the subject premises to respondent no.1 after seeking additional time from the apex court in terms of the discretion exercised in his favour, the said vacation of the subject premises cannot be said to be an eviction under Section 14 of DRC Act and hence Section 19 (2) has no applicability to the present case. The order dated 23.02.2016 passed by Hon'ble Supreme Court specifically records that on the prayer of the appellant they are being granted some time to vacate the subject premises. The introductory line of Section 19 (1) as applicable to Section 19 (2) of DRC Act, clearly states that the said provisions would be applicable only when the landlord recovers possession from the tenant in pursuance of the order made under Sub Section 1 of Section 14. It is denied that impugned order is contrary to settled law laid down by Supreme Court in *E Palaniswamy vs Palanisamy AIR 2003 SC 152* and *Atma Ram vs Shakuntala Rani AIR 2005 SC 3753*. It is stated that appellant's reliance on the said judgments is totally misplaced and the same have no application whatsoever to the present factual matrix.

5. I have heard the submissions of Ld. Counsels for both the sides and also gone through the record.

6. The present appeal is accompanied by an application under Section 5 Limitation Act 1963 seeking condonation of delay of about 55 days in filing the present appeal. It is stated that appellant was under bonafide impression that the limitation period for filing the appeal was 90 days as on an earlier occasion, he had filed a revision petition before High Court of Delhi and was informed that the limitation period for filing the same was 90 days. The delay in filing the appeal is neither intentional nor deliberate.

7. Although there is no justification shown for filing belated appeal and ignorance of law is not a valid excuse, yet, considering that matter should be decided on merits, I allow the application under Section 5 Limitation Act and proceed to decide the matter on merits.

8. Firstly it is important to analyse the judgments relied upon by trial court as well as respondents on the issue.

9. In the case of **Jai Dev Agarwal vs Vijay Kumar Angrish MANU/DE/1385/2020**, similar situation arose and following observations have been made:-

“2. The brief background of the litigation is that the Respondent/Landlord - Mr. Vijay Kumar Angrish (hereinafter, "Landlord") filed an eviction petition against the Tenant under Section 14(1)(e) of the DRC

Act in respect of property bearing no. B-3/83, Ashok Vihar, Phase II, Delhi-110052 (hereinafter, "tenanted premises"). The said petition was filed on 2nd February, 2011. Vide order dated 26th October, 2012, the Tenant's application seeking grant of leave to defend was rejected by the ld. Additional Rent Controller (hereinafter, "ARC") and a decree for eviction was passed. The said eviction order was upheld by a ld. Single Judge of this Court in Revision, being RC. Rev. No. 39/2013, vide order dated 27th September, 2013.

...

4. Subsequent to the order of the Supreme Court, on 8th August, 2014, the Tenant handed over possession of the tenanted premises to the Landlord, as recorded in the order of the Executing Court dated 29th August, 2014.

...

8. This Court has perused the record and heard the ld. counsel for the parties. The first and foremost question is whether Section 19(2) of the DRC Act would apply in the facts of this case. For the purpose of deciding this issue, the order of the Supreme Court dated 17th December, 2013 has to be perused. In the first portion of the order, the Supreme Court has dismissed the SLP against the eviction decree. However, what is important is the second portion of the order where it is

categorically recorded that the Tenant was given four months' time to vacate the tenanted premises "as prayed for". Upon dismissal of the SLP, the Tenant had the option to simply vacate the tenanted premises, however, he sought the indulgence of the Supreme Court to retain possession of the tenanted premises for a further period of four months, which was granted, following which the Tenant admittedly filed an undertaking before the Supreme Court to vacate the tenanted premises.

9. When a tenant prays for and is granted further time to remain in possession of the tenanted premises after the dismissal of an SLP/appeal against the execution decree, the tenant invokes the discretionary jurisdiction of the Court. While on a simple dismissal, the right to move under Section 19(2) of the DRC Act may have been available to the Tenant, once the Tenant prayed for and was granted further time to vacate the property and thereafter the tenant even filed an undertaking to vacate, the same was with the indulgence of the Court and constituted a voluntary undertaking to handover possession. Since the Tenant availed of the four months' additional period and filed the abovementioned undertaking, the tenanted premises would not be considered to have been recovered through the legal process but through a voluntary

undertaking.

12. A reading of the orders passed in the execution proceedings clearly shows that the possession of the tenanted premises had been given on 8th August, 2014. The statement given by the ld. counsel for the Respondent/Decree Holder and the order of the Executing Court clearly shows that the Tenant had handed over possession to the Respondent/Decree Holder voluntarily and not by coercion or by process of law after appointment of a Bailiff. Though the initial decree was under Section 14(1)(e), the handing over of possession was voluntary and hence in terms of the judgement of the Supreme Court in Vidya Dhir Bhagat (supra), Section 19(2) would not be applicable. A provision such as Section 19(2) which deprives the landlord of the absolute use of his property would have to be interpreted strictly, failing which there are chances of the same being completely misused, resulting in miscarriage of justice.”

10. Similarly, in the case of **Harjit Singh vs Sidhant Gupta, MANU/DE/4252/2024**, the following observations have been made:-

“19. In the revision petition filed by the petitioner before this Court, the petitioner exhibited an

inclination to settle the matter with the respondent, requested for some time to vacate the suit shop. Accordingly, the parties agreed that the petitioner shall vacate the suit property within 18 months from the date of order being 20.12.2016 i.e. on or before 30.06.2018. To remain in possession of the suit shop till 30.06.2018, the petitioner had further agreed to pay rent, electricity and water charges of the suit property, additionally, with an undertaking not to sub-let or part with possession of the suit property or cause any willful damage to the suit property. Accordingly, in view of the aforesaid compromise, the petitioner filed an affidavit of undertaking before this Court, hence, respondent was directed not to execute the eviction order till 30.06.2018. The parties were directed to remain bound by the terms and conditions as agreed before this Court and accordingly, the petition was disposed of as withdrawn.

20. In view of the above, it is clear that petitioner had willfully offered to vacate the suit shop on a deferred date and voluntarily handed over the possession of the suit shop on 30.06.2018 to the respondent without any pressure or by process of law in the execution petition. No doubt, the initial decree was passed by learned SCJ-cum-RC on 22.07.2016 in the eviction petition filed under Section 14(1)(e) read with Section 25B of

DRC Act as the petitioner failed to satisfy the learned SCJ-cum-RC of existence of any triable issue in the eviction petition and the petitioner's application to seek leave to defend filed under Section 25B(4) of DRC Act was dismissed with specific directions that the aforesaid order shall not be executed within a period of 6 months from the date of order as per Section 14(7) of DRC Act.

21. Nonetheless, the handing over of the possession was made by the petitioner of his own violation within an extended period than as provided under Section 14(7) of DRC Act as agreed before this Court, which otherwise would have continued only till 22.01.2017 from the eviction order dated 22.07.2016. Accordingly, the petitioner after having enjoyed the possession of the suit shop and protection from execution of eviction decree till 30.06.2018 cannot claim the benefit under Section 19(2) of the DRC Act.”

11. In the present case, it is important to re-produce the order passed by Apex Court in SLP Number 4615/2016, titled ‘M/s Satya Prakash And Sons (Firm) And Anr. vs Narain Kumar And Sons (HUF)’ with respect to the tenanted shop between the parties. Same is re-produced as under:-

“We are not inclined to entertain these special leave petitions, which are dismissed.

However, considering the prayer made on behalf of petitioners, that the petitioners be granted some time to vacate and handover peaceful and vacant possession of the property in question, we deem it appropriate to grant time till 30.06.2016 to the petitioners to vacate and handover peaceful and vacant possession subject to filing of a usual undertaking to that effect in this court within a period of four weeks from today, making it clear that they will handover peaceful and vacant possession of the property in question free from any encumbrance or third party interest or any other hindrance. Such possession shall be handed over by the petitioners to the respondents on or before 30.06.2016.

Pending application (s), if any shall stand disposed of.”

12. It is clear that prayer was made on behalf of tenant seeking time to vacate and handover peaceful and vacant possession of the property and same was granted till 30.06.2016. Accordingly, applicability of Section 19 (2) Delhi Rent Control Act would not be available in terms of the judgments **Jai Dev Agarwal** (*supra*) and **Harjit Singh Sahni** (*supra*). The judgments relied upon by appellant has no direct application to the facts of present case.

13. In view of above observations, court is of the opinion that Ld. ARC rightly passed the impugned order. No cause of action would survive in favour of tenant to seek relief under Section 19 (2) of Delhi Rent Control Act. The rejection of petition is appropriate, when law pronounced by Apex Court disentitles the tenants to invoke Section 19 (2), if they seek discretion to vacate the tenanted premises after taking time. I find no illegality or impropriety in the impugned order. No interference is called for. Appeal is accordingly dismissed.

14. Copy of order be sent to the trial court for information.

15. File be consigned to the record room.

(Anju Bajaj Chandna)
Principal District & Sessions Judge
Central District, Tis Hazari Courts
Delhi/16.07.2026