

RCT ARCT No. 11/25
Manak Chand Tyagi vs. Jaswant Kaur

17.04.2026

Present: Sh. Raghav Awasthi & Sh. Jagdish Trivedi,
advocates for appellant in VC.
Sh. Raj Kumar, advocate for respondent in VC.

Appellant/landlord filed a petition under Section 14 (1) (e) DRC Act for seeking eviction of one shop bearing No. 3 in House No. S-562, School Block, Shakarpur, Delhi against the respondent/tenant on the ground of bonafide requirement. In this petition, Id. ARC vide order dated 15.10.2025 granted leave to defend to the respondent/tenant, which order is challenged in the present appeal.

The appellant/landlord filed this appeal under Section 38 of DRC Act against the impugned order dated 15.10.2025. The respondent/tenant raised a preliminary objection that this appeal is not maintainable in this court and instead the appellant was required to challenge the impugned order in the Hon'ble High Court in revision or in writ due to bar of Section 25B (8) of the Act. In this regard, counsel for the respondent relied upon the judgment of Hon'ble Supreme Court in case **Abid-Ul-Islam vs. Indersen Dua (2022) 6 SCC 30**.

On the other hand, the counsel for the appellant filed written submissions and cited the decision in cases **Central Bank of India vs. Gokal Chand AIR 1967 SC 799**, **Inder Mohan Sachdeva vs. Usha International Ltd. 189 (2012) DLT 5** and **Vijay Kumar Setia vs. Captain Preet Inder Singh 2024 DHC 9386**.

No one can deny the fact that impugned order granting leave to defend to the respondent/tenant instead of passing an eviction order straightway has affected the rights of the appellant/landlord. This impugned order cannot be treated as interlocutory order being merely procedural one. If any order passed by the court affects the rights and liabilities of the parties, then it is an appealable order under Section 38 (1) of DRC Act as per decision of the Hon'ble Supreme Court and Hon'ble Delhi High Court cited above by the counsel for the appellant/landlord.

The wordings of Section 25B (8) of DRC Act clearly shows that where the order for recovery of possession of any premises is passed, then no appeal lies. It means where the leave to defend moved by the tenant to contest the eviction petition on bonafide requirement is not granted and consequentially the eviction order is passed by ARC, then such tenant has only remedy to approach the Hon'ble High Court but not to file any appeal before the RCT. In the Abid Ul Islam case cited on behalf of the respondent/tenant, an eviction order was passed by rejecting the leave to defend application of the tenant who filed an appeal before Rent Controller which was also dismissed and thereafter, the tenant filed revision in the Hon'ble High Court which was allowed and the eviction order was set aside but the landlord taken up the matter before Hon'ble Supreme Court where it was found that appeal filed by tenant was not maintainable at all. The facts of this cited case are distinguishable from the facts and circumstances of the present matter as in the present case, the leave to defend was allowed and not rejected. Had the leave to defend rejected, then the tenant was required to approach the Hon'ble High Court and was

prohibited to file any appeal. The bar of filing an appeal under Section 25B (8) of the DRC Act is applicable only where the eviction order is passed and for other types of orders except interlocutory orders, the appeal under Section 38 of the Act lies. Hence, it is held that this appeal is maintainable in this court under Section 38 of DRC Act and Section 25B (8) of DRC Act is not applicable. Accordingly, the question of maintainability of the appeal as raised by the counsel for respondent is hereby rejected.

Put up this matter now for final arguments on appeal on **04.05.2026**.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, KKD Delhi/17.04.2026