

**In the Court of Sh. Ashwani Kumar Sarpal,
Principal District & Sessions Judge, East District,
Karkardooma Courts, Delhi.**

(RCT ARCT No. 4/24)

Anil Kumar Jain vs. Mithilesh Mishra

(CNR No. DLET010052232024)

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(RCT ARCT No. 5/24)

Prabhash Jain vs. Mithilesh Mishra

(CNR No. DLET010052222024)

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(RCT ARCT No. 6/24)

Suresh Kumar vs. Mithilesh Mishra

(CNR No. DLET010052272024)

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(RCT ARCT No. 7/24)

Naveen Kumar vs. Mithilesh Mishra

(CNR No. DLET010052202024)

&

(RCT ARCT No. 8/24)

Naveen Kumar vs. Mithilesh Mishra

(CNR No. DLET010052212024)

Date of institution--- 19.09.2026

Date of decision----- 05.08.2026

JUDGMENT:-

- 1) The above mentioned five appeals are inter connected in which the landlady/respondent is the same but tenants/appellants are different. Similar type of orders passed on 20.08.2024 by the Id. Trial Court in all the five appeals are challenged by the tenants before this court. The impugned orders were passed on applications moved in each case by the landlady under Order 7 Rule 14 CPC. However, in the appeal bearing RCT No. 8/2024 one additional application under Order 6 Rule 17 CPC was also disposed off by the Id. Trial Court through the same order which is also challenged by the concerned tenant in addition to the order on application under Order 7 Rule 14 CPC.
- 2) The Trial Court record shows that respondent/landlady filed five different matters against different tenants under Section 14 (1) (e) of Delhi Rent Control Act for seeking of eviction of those tenants from different shops on the ground of bonafide requirement. In

the relief paragraphs of each petition, the addresses of the suit shops were given beside mentioning that the same are shown in red colour in the site plan attached with the respective petitions.

- 3) The respective tenants filed applications in each of the matter for grant of leave to defend and landlady filed replies of the same and when the matters were at the stage of arguments on the leave to defend applications, then landlady moved applications under Order 7 Rule 14 CPC annexed with another copy of the site plan in each of her petition because during part arguments on this leave to defend application, defects in the site plan and technical error in the prayer clause of the petitions were pointed out.
- 4) Landlady in her applications under Order 7 Rule 14 CPC moved in each of the matter alleged that some confusion had arisen regarding the site plan filed alongwith the respective petitions, so in order to remove that confusion and to assist the court in better manner, a fresh site plan be permitted to be taken on record in which shops in question are shown in red colour which were rented to the concerned tenants. Tenants opposed these applications by stating that filing of a wrong site plan raises a triable issue, it would change the property and its number in question which entitles the tenants to leave to defend and the applications were moved by the landlady just to deprive the tenants of one of the main ground to grant of leave.

- 5) However, Id. Trial Court vide impugned order dated 20.08.2024 allowed all these applications under Order 7 Rule 14 CPC of the landlady filed in each of the case subject to costs and permitted the landlady to file fresh site plan of the shops in question under occupation of different tenants.
- 6) The Trial Court record shows that vide order dated 14.02.2024, the Id. Trial Court took on record two case laws filed by the counsel for the tenants but in the impugned order, those were not discussed at all. The Id. Trial Court though held that the site plans filed initially with the petitions are showing multiple portions of the property in red colour instead of marking of the suit shops only in that colour qua which tenants had already raised this objection validly in leave to defend applications but the mistake committed by the landlady is curable and for the fair adjudication of the present matter, the correct site plans are required to be taken on record when there is no dispute that the tenants are occupying different shops in the same property. Accordingly, the applications moved by the landlady were allowed by imposing costs for wasting of the judicial time and causing inconvenience to the tenants by filing wrong site plans at the initial stage.
- 7) In the respective leave to defend applications, the tenants have specifically taken objection regarding filing of incorrect site plans.

- 8) One application under order 6 Rule 17 CPC was also moved by the landlady in eviction petition No. RC/ARC 1000/2016 before the Trial Court, related to appeal bearing No. RCT/08/2024 titled as Naveen Kumar vs. Mithilesh Mishra. Through this application, the landlady also wanted to correct the exact shop number in the prayer clause due to typographical mistake. I have heard counsel for the appellants and gone through the written submissions filed by both sides, case laws cited and trial court records in all the cases.
- 9) Hon'ble Delhi High Court in case **Vinod Industries (Pvt.) Ltd. vs. Suraj Kumari 1993 RLR 495** held that once leave to defend has been filed by the tenant in the eviction petition within the stipulated time, then he cannot be allowed to amend the said application by taking inconsistent pleas which are not related to subsequent events nor can be called clarificatory in nature. This law laid down can be equally applied in case of the landlady in the present matters.
- 10) The eviction petitions were filed in March, 2016 in which leave to defend applications came on record within time in June, 2016. However, the applications under Order 7 Rule 14 CPC were moved by the landlady in each of the case only on 27.09.2023 after more than 7 years period. She had already come to the knowledge from the leave to defend applications that the site plan

filed by her in each of the case were defective and not showing correctly the shops in possession of each of the tenants but still she took very long time of 7 years in moving these applications. The delay in filing these applications also make out a ground to reject the same because allowing of the same causes prejudice to the defence of the tenants as their one of the grounds to leave comes to an end. In case, the Id. Trial Court found it necessary, then these applications should have been dealt with after the disposal of the leave to defend applications of each of the tenants. There is no hesitation to say that the applications were moved to bring on record fresh site plans just not only to fill the lacunas of the case by the landlady but also with an intention to extinguish one of the grounds taken by the tenants.

- 11) Counsel for appellants also cited the decision of Hon'ble Delhi High Court in case **Madhu Gupta vs. M/s Gardenia Estates Pvt. Ltd. CM (M) No. 1239/2011 decided on 21.10.2011** wherein the rejection order passed by the Id. Trial Court seeking amendment of application of tenant under Order 6 Rule 17 CPC to amend the leave to defend application was upheld. Hon'ble High Court held that Chapter III A of the DRC Act prescribes a special procedure for a summary trial of certain applications filed under Rent Act and Section 25 (b) of the Act is a complete Code by which the entire procedure to be adopted for eviction of a tenant on the ground of bonafide requirement shall be followed. The procedure of Section 25 (b) DRC Act has to be strictly

complied with and Rule 23 of DRC Rules relating to applicability of the provisions of CPC cannot be applied in such type of cases. In this cited case, the Hon'ble High Court held that where some facts were already known to the tenant at the time when the leave to defend application was moved, then allowing any amendment in the same subsequently would amount to automatic extension of the time for filing such leave to defend application and such course is not permissible.

- 12) The counsel for the appellant also cited the decision of Hon'ble Supreme Court in case **Prithi Pal Singh vs. Satpal Singh AIR 2010 SC (Supp) 249** in which it is held that Chapter III A of DRC Act prescribed a special provision for summary trial of certain applications under the Rent Act and this Chapter is having overriding effect. In this Section 25 (b), special procedure for disposal of eviction application on bonafide requirement is prescribed and such provision has to be strictly complied with and question of relying upon Rule 23 of Delhi Rent Control Rules which does not give full rights to apply the provisions of CPC, could be applied.
- 13) Though the case laws cited above relates to the tenants but on the same analogy, the landlady can be also covered equally in the present matters. In the written arguments filed on behalf of the landlady, a plea is taken that amendments which are necessary for determining the real question in controversy between the parties

must be allowed so long as the same do not cause injustice or prejudice to the opposite side. It is alleged on behalf of the landlady that no prejudice has been caused to the tenants due to correction of the typographical error of the shop numbers and from filing of the rectified site plans nor the nature of the cases are going to be changed. It is further stated that mere delay in seeking the amendment or correction of the site plan is not sufficient to disallow the relief claimed. It is also stated that the delay had happened on the part of the court for not deciding the leave to defend application for 10 years and repeated adjournments were taken by the tenants and infact landlady has suffered for this delay. It is also stated that the tenants are being compensated in terms of the money as cost is imposed upon the landlady for delay in moving the applications. In this regard, counsel for landlady relied upon case laws **M/s Revajeetu Builders and Developers vs. M/s Narayanawwami & Sons AIR 2009 SC (Supp) 2897, Rajesh Kumar Aggarwal vs. K.K. Modi Appeal (Civil) No. 5350-5351 of 2002 decided by Hon'ble Supreme Court on 22.03.2006, Raghu Thilak D.John vs. S. Rayappan AIR 2001 SC 699, Sampat Kumar vs. Ayyakannu AIR 2002 SC 3369, J. Samuel vs. Gattu Mhesh AIR 2012 SC 811, Sugandhi vs. T. Raj Kumar AIR Online 2020 SC 807, Ms. Nalini Lal vs. State of NCT of Delhi Test.CAS No. 22/2009 decided by Hon'ble High Court on 28.02.2024, Mohan Raj Roop Chand vs. Kewal Chand Hasti Mal AIR 2007 Bom 69 & Pradeep Bailey vs.**

Gilma Daniel CM (M) 1506/2023 decided by Hon'ble High Court on 18.06.2025 in which it is held that amendments can be allowed and technical defects can be removed for doing substantial justice to the parties and in the interest of justice as procedural technicalities should not defeat the substantial justice. However, all these case laws are pertaining to the normal civil matters and not relating to rent proceedings qua which a special procedure has been prescribed under the DRC Act.

- 14) In view of the above discussions, I am of the opinion that the impugned orders passed on the applications in each of the above cases cannot be sustained and accordingly, are set aside. After passing of the orders on the leave to defend applications, the ld. Trial Court can dispose off the applications under order 7 Rule 14 CPC filed in each case and application under Order 6 Rule 17 CPC filed in RC/ARC 1000/2016 afresh on merits.
- 15) Accordingly, all the above mentioned five appeals are allowed. Copy of the order be kept in each file. One copy of the order alongwith the TCR be returned to the Trial Court and appeal files be consigned to record room.

Dt- 05.08.2026.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, Karkardooma Courts, Delhi.