

RC ARC 115/24

POONAM

..... Petitioner

VS.

ASHOK KUMAR GUPTA SONS ANR

.....Respondents

19.01.2026

ORDER

1. This order shall dispose off an application for granting leave to defend filed on behalf of the respondent.
2. Briefly stating, petitioner's case is that she is the co-owner of a property bearing no. IX/1340, Subhash Road, Gali Hanuman Mandirwali, Gandhi Nagar, Delhi vide Registered Sale Deed dated 25.06.2007 (hereinafter referred to as "**property no. IX/1340**"). That vide the said sale deed, the petitioner had purchased the 1/3rd undivided portion of the property no. IX/1340 from late Sh. Heera Lal. That the respondent no. 1, which is a proprietorship firm, is a tenant in respect of a private Shop No.5 on the ground floor of the aforesaid property no. IX/1340. The same is shown in red colour in site plan filed alongwith the petition. The respondent no.2 is the proprietor of respondent no.1 who is looking after its entire business. That the tenanted premises is bonafidely required by the petitioner for her major son, namely, Sh. Love Pawar, who is a graduate, but is jobless & so has decided to start a business of ready-made garments but is unable to do so because of non-availability of a suitable commercial accommodation. That the petitioner has no other suitable alternate commercial accommodation/property anywhere in Delhi.

3. It is further averred that after purchasing the undivided portion in property no. IX/1340 by the petitioner, the tenants started to pay her rent admitting her their landlady. That on the ground floor of property no. IX/1340, there are 15 shops bearing private shop no. 1 to 15 of 6'x11' each and all the shops except shops no. 5, 6 & 13 have already been sold out by the co-owners a long time ago due to financial crisis and presently, shop no. 5 on the ground floor is under the tenancy of respondent no.1 and he has been paying rent to the petitioner against the rent receipts. Further, shop no.6 is very small and is located under stairs and is in occupation of another co-sharer, namely, Sh. Vinod Kumar. Whereas shop no. 13 is under the joint possession of co-sharers, namely, Smt. Laxmi and Sh. Sushil Kumar wherein Sh. Dinesh Kumar, S/o Laxmi and Sushil Kumar is running his garments business separately in 1/2 equal separate portion thereof. That on the first floor of the property no. IX/1340, there are only 14 godowns/store rooms having private no. 1 to 14 and all are under the tenancy of one Shri Jayanti Prasad who is paying rent for 7 shops separately to each of the co-sharers, i.e., Smt. Laxmi and the petitioner. That on the second floor, entire accommodation is residential and it consists of three bed rooms, two kitchens, two separate Lat-baths, one covered Varandah out of which one room, 1/2 portion of Varandah, one kitchen & Lat-bath are with Smt. Laxmi Devi whereas one Room, 1/2 portion of Varandah, one Kit.& Lat-bath are with petitioner, as shown with green colour in the site plan annexed with the petition. Further, one room is with Sh. Sushil Kumar. That the tenanted premises is situated in famous Ready-made Garments Market of Gandhi Nagar and is most suitable for the Garments business to be run by the above-named son of the petitioner.

That no portion of above-said property has been let out to any one within a period of last three years prior to filing present petition. Hence, the present petition.

4. Summons of the present petition were served upon the respondents in the prescribed proforma as per Schedule III, Section 14(1)(e) of DRC Act on 29.09.2024. Thereafter, an application for leave to defend was filed on behalf of respondent on 05.10.2024. Thus, the same was filed within the limitation period of 15 days.
5. It is stated by the respondents in the said application that there is no privity of contract of landlord and tenant relationship between the petitioner and the respondent Sh. Ashok Kumar Gupta and hence the petitioner is not the owner/landlady of tenanted premises. That as per the sale deed dated 25.06.2007, the vendor Sh. Heera Lal is the actual owner and in possession of undivided 1/3rd share of the built up property bearing no.IX/1340, built up on the land of 33.33 sq. yards out of the total land measuring 100 sq. yards out of khasra no.412/339 and as per revenue record, new khasra no.412/339/63/2-Min, situated in abadi Subhash Road, Gali Hanuman Mandir, Gandhi Nagar, in the area of village Seelampur, Shahdara, therefore, the petitioner cannot claim herself as a owner or a landlady of a particular portion and more specifically of the tenanted premises. That the petitioner has not filed any document of partition showing that the tenanted premises falls in her share. That the respondent was inducted as a tenant by some other person and there is no letter of attornment etc., or no landlord-tenant relation between the petitioner and the respondent. That there is a civil dispute pending between Sh. Heera Lal and the petitioner regarding the same property and each one is claiming the ownership of different

portion in the property and it has not been decided by the competent court that which portion of the property falls under the petitioner. That the petitioner is a rent collector only for and on behalf of other shareholders and therefore, she cannot claim herself to be the owner/landlady of the tenanted premises. It has further been averred that particulars of the property mentioned in the petition and particulars mentioned in the sale deed of the petitioner are different and it is not clear whether it is the same property regarding which sale deed regarding 1/3rd undivided share has been executed in favour of the petitioner. Moreover, the respondent is a tenant in the tenanted premises from last more than 30 years whereas the sale deed of petitioner says that vacant physical possession has been delivered to the petitioner. That the petitioner is having other immovable properties in the same vicinity, however, she has concealed the same from the court. That the respondent has already paid rent upto December 2024, however, the present petition has been filed in the month of August-2024 and hence there is no cause of action to file the present petition. That son of the petitioner Sh. Love Pawar is already doing a business of installing camera and internet connection etc. in the same area and husband of the petitioner Sh. Anil Kumar is also indulged in the business of Real Estate and he is having rental income from other properties situated in the same vicinity. That other co-sharer(s) have also sold number of shops out of 15 shops after getting vacated the same from the tenants on similar ground and the present petition has also been filed by the petitioner to evict the respondent from the tenanted premises on flimsy ground and she would sell out the same to a third party against a humpty amount. Thus, prayer has been made that the respondents may be granted leave to defend the present petition since he has raised several triable issues.

6. Reply to the application in hand was filed by the petitioner denying all the averments mentioned in the present application. It is stated that the petitioner has become a co-owner of suit property having a share/portion measuring 33.33 sq yds on the basis of Registered Sale Deed dated 25.06.2007. That symbolic possession of the tenanted premises was given by the vendor Sh. Heeral Lal in the presence of the respondent who had then admitted the petitioner as his landlady. That the respondent started to pay rent admitting her co-owner and landlady of the property no. IX/1340 and as such there is clear landlord and tenant relationship between the parties. Further, that neither any co-owner nor respondent ever raised objection to co-ownership and landladyship of petitioner in respect of tenanted premises. That no civil dispute is pending between Sh. Heera Lal and the petitioner regarding property no. IX/1340 and she is legally entitled to collect rent from the respondent. It is further averred that Sh. Heera Lal has already died. That one of the co-owners can file an eviction petition against the tenant for his/her bonafide need as per provision of DRC Act and tenant has no right to challenge the ownership of the petitioner. That Sh. Heera Lal, Smt. Laxmi and Brij Rani are not claiming for absolute ownership of the portion of same property but they are co-owners in the undivided property.
7. Rejoinder was filed on behalf of the respondent wherein he has denied all the averments made by the petitioner.
8. Arguments advanced by Ld. Counsel for the petitioner and Ld. Counsel for the respondent have already been heard. Case file perused carefully.

9. The essential requirements to be established by a landlord to succeed in an application under Section 14(1)(e) of the DRC Act are as follows:-
 - (i) That he must be the owner as well as the landlord. (ii) There must be a relationship between the parties as landlord and tenant. (iii) The tenanted premises must be bona fide required by the landlord either for himself or for his family members. (iv) There is no other reasonably suitable accommodation available with the landlord.
10. In the present petition, in order to prove her ownership qua the tenanted premises, the petitioner has placed on record the copy of a sale deed dated 25.06.2007 executed by Sh. Heera Lal in her favour vide which she has purchased the undivided 1/3rd share in the property bearing no. 1340. Further, in respect of relationship of landlord and tenant between herself and the respondent the petitioner has placed on record the copy of rent receipts dated 22.01.2024, 22.12.2023 and 25.07.2023, issued by her in favour of the respondent. Perusal of the same reveals that the said rent receipts also bears the signatures of the respondent alongwith that of the petitioner.
11. On the other hand, the respondent has disputed the fact that the petitioner is his land lady and has averred that he was inducted as a tenant by some other person. However, it is pertinent to note here that the respondent has not disputed the fact that his status qua the tenanted premises is of a tenant only. It is not his case that he is the owner of the tenanted premises or that he is in possession thereof in any other capacity. Further, the respondent has not disclosed the name of the person, who according to him, had inducted him as a tenant in the tenanted premises and no explanation has also been put forth by

him for hiding the name of the landlord. Moreover, the respondent has admitted in his leave to defend application that the petitioner has been collecting the rent from him. He has also admitted that he has already made payment of rent up to the month of December, 2024. Further, in his leave to defend application, the respondent has also stated that the other co-sharers (of property no. IX/1340) have sold number of shops out of 15 shops within a very short span of period, after getting vacated the same from the tenants on similar ground of bonafide need and the petitioner also wants to evict the respondent on flimsy grounds so that she could sell out the tenanted premises to some other person. Thus, on one hand the respondent is alleging that the petitioner is merely a rent collector whereas on the other hand he is admitting that she being a co-sharer, like the other co-sharers, wants to evict the respondent from the tenanted premises in order to later sell out the same for a hefty amount. Thus, the respondent has taken two contradictory pleas together which cannot be permitted. Moreover, it is a settled position of law that in a petition under Section 14(1)(e) DRC Act, the landlord is not required to prove his absolute ownership qua the tenanted premises and he only has to show that he has a title better than that of the tenant (Reliance in this regard is placed on the decision of **Gulfam Vs. Mohd. Bilal & Ors. 266 (2020) DLT 54**, relied upon by Id. Counsel for the petitioner). This court is of the view that in the present petition, by placing on record the copy of sale deed dated 25.06.2007 and copies of rent receipts executed by petitioner in favour of the respondent and considering the aforesaid admission of the respondent, the petitioner has been able to show her better title qua the tenanted premises than the respondent. Thus, this court is of the view that since there is an admission on the part of the respondent that the petitioner is a co-sharer (if not the absolute owner)

of the tenanted premises and that he is a tenant qua the same, therefore, the respondent is estopped from challenging the ownership documents of the petitioner as per Section 116 of the Indian Evidence Act.

12. Further, the respondent has alleged that civil disputes are pending between Sh. Heera Lal and the petitioner regarding the property no. IX/1340 and each one of them is claiming himself/herself as the owner of the said property and till the time it is not decided by a competent court as to which portion falls in the share of the petitioner, she cannot specifically claim herself to be the owner/landlady of the tenanted premises. In this regard, it is pertinent to note here that the respondent has not disclosed the details of the said civil disputes which are pending between the said Sh. Heera Lal and the petitioner. It has only been contended during the course of arguments that a suit for partition amongst all the co-sharers of property no. IX/1340 is still pending and before the same is decided, the petitioner cannot claim herself to be the exclusive owner of the tenanted premises and cannot file the present petition. This contention of Ld. Counsel for the respondent does not find favour with this court because it is a settled position of law that the co-owner of a property is the owner of each and every inch of the property till the time it is partitioned by meets and bounds and, thus, he is well within his rights to file an eviction petition against the tenant. In case titled as **FGP Ltd. Vs. Saleh Hooseini 2010 (1) Civil Court Cases 014 (SC)**, (relied upon by Ld. Counsel for the petitioner) it has been held by the Hon'ble Apex Court that a co-owner can always maintain a suit for eviction. It has further been observed that normally, a tenant's right to question the title of a landlord is very limited in view of rule of law which is codified in

Section 116 of the Indian Evidence Act. Thus, placing reliance upon the aforecited decision this court is of the view that the respondent is estopped from questioning the title of the petitioner once he has admitted the payment of rent to the petitioner and has not disclosed that if not the petitioner then who is the landlord qua the tenanted premises. Thus, from the foresaid facts and circumstances, this court is of the view that no triable issue has been raised by the respondent in respect of ownership of petitioner and landlord-tenant relationship between the petitioner and the respondent and the same stands duly established for the purpose of the present petition.

13. Coming to the bonafide requirement of the petitioner, then she has claimed that she requires the tenanted premises for her son, namely, Love Panwar, to start a business of readymade garments. Now, The fact that the petitioner has a son named Sh. Love Pawar, is not disputed by the respondent in his leave to defend application. It is the contention of the respondent that the son of the petitioner is already doing the work of camera installation and internet connection, therefore, the contention of the petitioner that her son is not working at present is false. However, respondent has not disclosed any details such as firm name under which the son of the petitioner is already working. He has also not placed on record any visiting card or photographs of the petitioner's son while installing camera/internet connection so as to suggest that he is doing any work. Similarly, he has also not placed on record any bills/invoices issued by the son of the petitioner, any GST details of the firm of the son of the petitioner, any record of Income Tax Return filed by him or any other record/document in support of the said contention. Thus, mere oral averments have been made by the respondent in this regard. Further,

the respondent has averred that the husband of the petitioner is also doing his own business of Real Estate and is having a rental income from other properties, therefore, there is no bonafide requirement of the petitioner for the tenanted premises. This averment of the respondent also does not hold any water because the present petition has been filed by the petitioner for her son's requirement and not for her husband's requirement, therefore, the income being earned by the son of the petitioner is to be looked into by the court and not the income of the husband of the petitioner and as already observed hereinabove, the respondent has not placed on record any document in respect of income of the son of the petitioner. In the case of **Prativa Devi V. T.V. Krishnan, (1996) 5 SCC 353**, it was held that the landlord is the best Judge of his requirement and Courts have no concern to dictate the landlord as to how and in what manner he should live. The bona fide personal need is a question of fact and should not be normally interfered with. Thus, placing reliance upon the aforecited decision and in view of the facts and circumstances discussed hereinabove, this court is of the view that no triable issue has been raised by the respondent qua the bonafide need of the petitioner.

14. As far as the availability of alternate suitable accommodation is concerned, then the fact that the tenanted premises is a shop situated in the famous readymade garment market of Gandhi Nagar and thus, would be best suited for the projected need of the petitioner's son is not disputed by the respondent. As evident from the site plan placed on record by the petitioner, the tenanted premises is situated on the ground floor of property no. IX/1340 and is a corner shop. The site plan of the respondent also corresponds to the site plan of the

petitioner qua the location of the tenanted premises. Now, it is a well known fact that a shop situated on the ground floor and in a corner would have more footfall of customers than in a shop located at any other floor. Moreover, it is the landlord who is the best judge of his own needs and it is for him to decide as to in which shop he wants to run his business and he cannot be mandated and dictated by the tenant as to in which portion of the property, he needs to run his own business. It has been held in the case of **Viran Wali Vs. Kuldeep Rai Kochhar 174(2010) DLT 328** as under:-

“35. It sounds really strange that owner/landlord should be at the mercy of the tenant for running his own business in the property owned by him as per the dictates of the tenant. It is a well known fact, that any shop situated on the ground floor is more convenient than a shop situated in the basement of the premises. Respondent being the owner/landlord of the premises in question, has all the right and choice to start his own business in the premises more suitable and most convenient to him.

36. Any business which is being run from the ground floor of the premises, will obviously attract more customers than the business being run from the basement. It is the settled law, that a tenant cannot dictate the landlord as to how and in what manner the landlord should use his own property.

37. Respondent in his eviction petition in clear and unequivocal terms has mentioned about his requirements. It is not only the "mere desire" of the respondent to get the premises vacated but he needs the same for his above stated requirements. So, it cannot be said that respondent does not require the premises for himself and his son dependent upon him for accommodation for the purpose of starting business.

38. The concept of alternate accommodation means that accommodation which is "reasonable suitable" for the landlord. As to alternative accommodation disentitling the landlord to the relief of possession, it has been held time and again that it must be reasonably equivalent as regards suitability in respect to the accommodation he was claiming. The court would permit the landlord to satisfy the proven need by choosing the accommodation which the landlord feels would be most suited for the purpose; the court would not in such a case thrust its own wisdom upon the choice of the landlord by holding that not one but the other accommodation must be accepted by the landlord to satisfy his such need. In short, the concept of bonafide need or genuine requirement needs a practical approach instructed by realities of life. An approach either too liberal or too conservative or pedantic must be guarded against. As long as the landlord is

able to establish that he 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 and that the viability of the other accommodation will have also to be considered from the stand-point of a reasonable landlord. It is further to be observed that the law does not require the landlord to sacrifice his own comforts and requirements merely on the ground that the premises is with a tenant and for deciding whether or not the alternative accommodation available to the landlord is suitable or not, the social customs, conventions and habits, usage and practices of the society cannot be completely ruled out and termed as irrelevant. The problem had to be approached from the point of view of a reasonable man and not that of a whimsical landlord. ”

15. Thus, placing reliance upon the aforecited decision, this court is of the view that a shop which is situated on the ground floor needs to be viewed from a different perspective as it can attract more customers. Furthermore, the petitioner has categorically stated in her petition that on the ground floor of the property no. IX/1340, out of the 15 shops, only 3 shops bearing private no. 5, 6 and 13 are available whereas the remaining 12 shops have already been sold out. It is also her case that the shop no. 6 is in occupation of a co-sharer namely Sh. Vinod Kumar whereas the shop no. 13 is under joint possession of co-sharer Smt. Laxmi and Sh. Sushil Kumar. Further, that on the first floor, 14 godowns are there which are in the occupation of a tenant namely Jayanti Prasad whereas the second floor is being used for residential purposes. Petitioner has also placed on record copies of rent receipts issued in favour of tenant namely Jayanti Prasad in respect of the seven godowns for which he is paying rent to the petitioner. Thus, evidently, there is no other/alternate vacant accommodation which is exclusively available to the petitioner.

16. On the other hand respondent has merely verbally alleged that the petitioner has other immovable properties which have been concealed

by her but he has not disclosed/furnished the details of those other properties. Since, it is the respondent who has alleged the availability of other accommodation with the petitioner, therefore, it was incumbent upon him to furnish its details, however, he failed to do so. Further, it is pertinent to note here that the respondent has admitted in his application for leave to defend that the other co-sharers have sold out 12 shops out of 15 shops within a very short span of time. Also, he has not specifically denied that shops no. 6 and 13 on the ground floor are under the occupation of other co-sharers. Although, in his site plan he has shown that there are shops on the first floor as well but there is no averment to the effect, as to whether these shops are lying vacant and are available with the petitioner. Respondent has also not placed on record any photographs to show that these are in fact shops and not godowns as alleged by the petitioner and thus, can be used by the petitioner. Thus, from the averments of the respondent it is evident that the tenanted premises is the only premises which is available to the petitioner and can be used by her son for his projected need. Thus, this court is of the view that the respondent has also failed to raise any triable issue in respect of availability of alternate accommodation with the petitioner.

17. Thus, in view of the aforesaid discussion, this court is of the view that the petitioner has successfully established the essential ingredients of Section 14(1)(e) of DRC Act whereas the respondent has failed to raise any triable issue in the present petition. Hence, the present petition under Section 14(1)(e) of the petitioner is allowed and the respondent is hereby directed to vacate the tenanted premises i.e. shop no.5 on the ground floor of the aforesaid property no. IX/1340, as shown in red colour in site plan annexed with the petition. However, as per Section 14 (7) DRC Act, the Petitioner shall not be entitled to

obtain possession thereof before the expiry of a period of six months from the date of this order. File be consigned to record room after due compliance.

(PRAGATI)
Senior Civil Judge cum RC, (Shahdara)
Karkardooma Courts, Delhi/17.01.2026