

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

(RCT No.-2/2025)

**Rajinder Singh Bedi**

**vs.**

**Avinashi Lal Ahuja & Another**

Date of institution---20-3-2025

Date of decision-----18-5-2026

**(Appeal against the judgment dated 4-2-2025 passed by Sh. Vinik  
Jain, ARC/ACJ/CCJ, East, Karkardooma Courts, Delhi)**

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**JUDGMENT:-**

- 1) Sh. Avinashi Lal Ahuja filed an eviction petition on the ground of subletting under Section 14 (1) (b) of Delhi Rent Control Act on 2-3-2013 with the averments that he had orally let out one shop bearing municipal no. IX/7103, Guru Nanak Gali, Gandhi Nagar, Delhi to respondent no. 1 Rajinder Singh Bedi at monthly rent of Rs. 354.50 paisa but he sublet this shop to respondent no. 2

Mohd. Salman without any written permission of the petitioner at the monthly rent of Rs. 25,000/-, who started running the business from the said shop in the name of M/s. Salman Garments. This petition was allowed on 4-2-2025 by Id. ARC against which the present appeal has been filed.

- 2) Trial Court record shows that during pendency of the petition, petitioner Sh. Avinash Lal Ahuja expired and his LRs were brought on record. Thus, Sh. Avinash Lal Ahuja/LRs shall be referred as 'petitioner' in the present appeal. Respondent no. 1 Sh. Rajinder Singh Bedi also expired during pendency of the present appeal and his LRs are also brought on record. Herein after, Sh. Rajinder Singh Bedi/LRs shall be referred as 'respondent no. 1', whereas respondent no. 2 Mohd. Salman shall be referred as 'respondent no. 2' for the sake of convenience.
- 3) Respondents no. 1 and 2 both contested the petition before Id. Trial Court by filing joint written statement and by engaging same advocate and alleged that the tenancy was in the name of firm Sh. Rajinder Singh Bedi & Sons since year 1989 and not in

favour of respondent no. 1 as an individual. Even Pugri of Rs. 5,90,000/- was also paid to the petitioner by the respondent no. 1 at the time of inception of tenancy. It is alleged that the above firm Sh. Rajinder Singh Bedi & Sons as well as co-tenants i.e. three sons of respondent no. 1 namely Sh. Vinod Bedi, Sh. Ajay Bedi and Sh. Sanjay Bedi were not joined as party, so petition is bad for non joinder of necessary parties. It is further alleged that the shop in question is in actual physical possession of firm Sh. Rajinder Singh Bedi & Sons, respondent no. 1 and his three sons who are running the business of readymade garments from it in the name and style of M/s. Raju Trading Co. It is further stated that respondent no. 1 and his sons regularly sit in the shop, look after their business and the shop is under their exclusive control and key and lock of the same is lying with them. Sub-letting of shop in favour of respondent no. 2 at the alleged monthly rent of Rs. 25,000/- is also denied, who is described as simple employee of respondent no. 1 w.e.f. 1-12-2012 at the salary of Rs. 10,000/- per month, having no control of any nature over the tenanted shop nor having any right, title or interest in the tenancy in question. In the written statement, it was also stated that the petitioner used to

issue rent receipts but stopped issuing such receipts subsequently w.e.f. 1-4-2010.

- 4) Record also shows that initially the case was contested by both respondents no. 1 and 2 jointly in Id. Trial Court but later on respondent no. 2 was declared exparte vide order dated 6-10-2021 as the counsel withdrew his vakalatnama on his behalf due to absence of instructions. It is important to mention here that respondent no. 2 did not file any appeal against the impugned judgment nor signed the present appeal but is still appearing in the present appeal without filing any reply and apparently just watching the proceedings only. At final judgment stage, however, he filed written arguments and infact supported the stand already taken before Id. Trial Court.
- 5) In order to prove his case before Id. Trial Court, petitioner examined three witnesses namely PW-1 Sh. Alok Malhotra from Bank of Baroda, Gandhi Nagar branch, PW-2 Sh. Virender Bhatia from Sales Tax Department and PW-3 Sh. Harish Chander Ahuja being son of deceased petitioner. Though, in para no. 5 of the

impugned judgment, it is mentioned that Sh. Raju Tripathi, Inspector Trade & Taxes Department is also examined as PW-4 but I could not find any formal statement recorded on oath of this witness. Only in ordersheet of the Id. Trial Court dated 2-2-2017, it has come on record that this person Sh. Raju Tripathi had appeared with office file relating to record of assessee/registered trader of TIN number 07220230047 and petitioner wanted to produce certain documents from this file as Ex. PW4/A to PW4/J just for inspection of court. This order sheet shows that no objection of any kind was raised by counsel for the respondents, so these above documents which were even exhibited can be considered while disposing of this appeal, if required. On the other hand, respondent no. 1 Sh. Rajinder Singh Bedi examined himself as RW-1 and Sh. Pushpender Kumar, Executive engineer from MCD as RW-2.

- 6) I have heard counsel for petitioner and respondent no. 1 and gone through the record including Id. Trial Court record. The following points have been raised in this appeal.

a) **Defect in the site plan Ex. PW3/A:-** PW-3 admitted in his cross examination that the site plan was neither prepared by him nor is signed by him as it was prepared by a draftsman. When the identity, description and address of the tenanted shop is not in dispute, then any defect in the site plan can be ignored. Otherwise also, there appears no defect in the site plan Ex. PW3/A lying on Trial Court record.

b) **Question of ownership and title of petitioner is irrelevant:-** During cross examination of PW-3, certain question were put on behalf of respondents in order to show that petitioner is not the owner of the suit shop nor is having title documents of it. However, such type of defence is not permissible to be taken due to bar of Section 116 of Indian Evidence Act because tenant cannot question the title and ownership of tenanted premises and establishment of relationship of landlord and tenant is suffice to be proved in eviction proceedings.

c) **Whether the tenancy was in the name of respondent no. 1 or to firm M/s. Rajinder Singh Bedi & Sons:-** RW-1 in

his cross examination admitted that firm M/s. Rajinder Singh Bedi & Sons was a proprietorship firm but stated that his son Sh. Ajay Bedi is its proprietor who had also obtained license to run this shop from Shop and Establishment Department in his name as well as he was paying income tax. Admittedly, RW-1 had not got registered the firm M/s. Rajinder Singh Bedi & Sons in any govt. department/ authority. The business of ready-made garments was being run from this shop as per RW-1 but he could not file any document to show that this firm was issuing any receipt of sale of any item from the shop in question.

Law is well settled that proprietorship firm has no legal and separate entity in the eyes of law and for everything, only its proprietor has to be looked into. In the written statement, respondent no. 1 nowhere specifically alleged that firm M/s. Rajinder Singh Bedi & Sons belonged to his only son Sh. Ajay Bedi. On the other hand, defence plea taken in written statement is that firm is a tenant and respondent no. 1 along with his other three sons are co-tenant in the same. Admittedly as per cross examination of RW-1, the tenancy was obtained

by respondent no. 1 from petitioner and not by his son Sh. Ajay Bedi. Accordingly, respondent no. 1 has to be treated as tenant and not the firm. Even if for the sake of arguments, it is held that respondent no. 1 after obtaining the tenancy from petitioner, started running the business in the name of proprietorship firm of his son, then also that will not make any difference as actual tenant was always respondent no. 1 himself.

Otherwise also, in another petition filed by the petitioner u/s 14 (1) (a) on account of non payment of rent against respondent no. 1 bearing RC-ARC no. 651/2016 decided on 25-3-2022, a finding has already come on record that actual tenant of the shop in question is respondent no. 1 and not firm M/s. Rajinder Singh Bedi & Sons. It is informed during arguments that the decision dated 25-3-2022 has not been upset till date by any higher court. Thus, this finding of competent court that respondent no. 1 is the only tenant in the suit shop and not firm M/s. Rajinder Singh Bedi & Sons applies as res-judicata in the present proceedings and is to be applied having binding effect.



Thus, non-mentioning the name of this firm M/s. Rajinder Singh Bedi & Sons in the petition as one of the respondents does not make it bad for non-joinder of necessary party. Obtaining of license to run this shop from Shop and Establishment Department in the name of Sh. Ajay Bedi (one of the sons of respondent no. 1) does not automatically become this son or other sons of the respondent no. 1 having status of co-tenant or joint tenant. Admission of PW-3 that sometimes son and grand-son of the respondent no. 1 were also found sitting in the shop after institution of the petition and after leaving of shop by sub-tenant respondent no. 2 does not lead to the inference that they also become co-tenant of the shop. Respondent no. 1, tenant if due to his old age of 75-80 years has allowed his son or other family members to do business activity from the tenanted shop will not make them also co-tenant or joint tenant.

Respondent no. 1 relied upon one rent receipt bearing no. 757 Ex. PW3/R-1 dated 4-1-1990 issued in the name of firm M/s. Rajinder Singh Bedi & Sons but PW-3 clearly deposed that it was not the first rent receipt. As per PW-3,

initial receipts were in the name of respondent no. 1 and if any, subsequent rent receipt is issued in the name of firm, then that will not make the firm as tenant, when it is not the case of the respondent no. 1 that status of tenancy was subsequently changed from individual to firm at any time. Statement of PW-3 cannot be disbelieved merely on the ground that some earlier rent receipts bearing no. 731, 744 and 755 are found not signed by the respondent no. 1. Absence of his explanation on whose request, his deceased father (original petitioner) mentioned the name of firm later on the receipts is an immaterial fact. Similarly, some rent receipts issued by PW-3 himself subsequently also will not make the firm as legal tenant. Otherwise, now this controversy whether respondent no. 1 or firm M/s. Rajinder Singh Bedi & Sons was the tenant is already solved due to decision of competent court referred above. Accordingly, it is held that only respondent no. 1 was the tenant of the shop in question in individual capacity and firm M/s. Rajinder Singh Bedi & Sons had not taken the shop on rent from petitioner.

**d) Whether respondent no. 2 is a sub-tenant or an employee**

**of respondent no. 1:-** It is alleged by the respondent no. 1 that respondent no. 2 remained his employee only for a period of 13 months from 1-12-2012 to 31-12-2013 and was paid salary of Rs. 10,000/- per month only and thus presence of an employee or servant in the shop does not make out a case of sub-tenancy as full and exclusive control and possession of the shop always remained with respondent no. 1.

The best evidence i.e. respondent no. 2 himself, was not examined on behalf of respondent no. 1 who was always available and is still appearing in the present appeal. Respondents no. 1 and 2 jointly contested the case and filed common written statement through the same counsel. There is no employment letter issued in his favour by respondent no. 1 to point out that he was being paid salary of Rs. 10,000/- per month and his tenure as employee was for 13 months from 1-12-2012 to 31-12-2013. RW-1 in his cross examination also stated that he had not shown respondent no. 2 as his servant in income tax authorities nor gave any intimation to police regarding his service in rented shop.

On the other hand, evidence of PW-1 bank witness shows that respondent no. 2 had opened a saving bank account in his name and his statement of account for the period from 4-10-2011 to 11-10-2013 produced in court Ex. PW1/1 shows that on some occasions, transactions worth lakhs of rupees were done. Mere fact that some portion of account opening form Ex. PW1/2 is not fully clear itself is no ground to disbelieve the genuineness and correctness of the bank statement Ex. PW1/1, entries of which were not disputed at all by the respondents. Respondent no. 2 was not examined to show that income worth lakhs of rupees came in his bank account was not relating to his business activities carried out from the shop in question but was in respect of some other transactions or personal in nature etc. Even in the written arguments filed by respondent no. 2 in the present appeal, no explanation has been given from where he earned lakhs of rupees as reflected in his bank account, when he was just employee at the rate of Rs. 10,000/- per month during the relevant period. The burden was upon both the respondents to establish that number of heavy transactions appearing in the

bank record of the respondent no. 2 was not relating to his business related activities from the shop in question but was something else but they failed to prove it.

PW-3 could not tell the date of creation of sub-tenancy nor could show any proof that respondent no. 2 used to pay Rs. 25,000/- rent to respondent no. 1. PW-3 also admitted that after leaving of respondent no. 2 from shop, the son and grand son of the respondent no. 1 have again started sitting in the shop. But these admissions are not sufficient to hold that no such sub-tenancy ever existed because hardly such evidence is created by the tenant or sub-tenant and this personal and secret deal between them is actually concealed from the landlord being illegal activity. Landlord can prove such deal only through indirect and circumstantial evidence. PW-3 also stated in his cross examination that respondent no. 2 had engaged Nonu as his servant in the shop. Non examination of that servant by the petitioner is not fatal to his case. Thus, the court has to see the circumstances of the case to find out whether any such sub-tenancy came into existence or not. I am of the view that petitioner is able to prove from the bank record and

other circumstances that respondent no. 1 had sub-let the shop to the respondent no. 2 without written permission of the petitioner.

Respondent no. 1 relied upon photocopies of some vouchers Mark RW-1/2 to RW-1/8 allegedly signed by respondent no. 2 regarding receipt of salary from respondent no. 1. These photocopies cannot be relied upon due to non-production of its originals as well as non examination of respondent no. 2 to show that he actually received salary through these vouchers.

Petitioner also relied upon some photographs Ex. PW3/D to show that respondent no. 2 was infact running the shop let out to respondent no. 1. However, these photographs were rightly discarded by the Id. Trial Court as manipulations and editing of the same cannot be ruled out when similar type of edited photos Ex PW3/R-2 to Ex PW3/R-9 were brought on record by the respondents to show that manipulations in the photographs produced by the petitioner is possible. Moreover, PW-3 who himself had clicked those photos from his digital camera has not produced memory card of the said camera.

Similarly, photocopies of some bills Mark-D and photocopy of visiting card of respondent no. 2 Mark-E as well as screen shot of Just Dial website Mark-F were not considered by Id. Trial Court being inadmissible evidence as the actual person who procured those bills and visiting card was not examined nor such bills Mark-D were prepared in presence of PW-3 nor he was having any personal knowledge about the same. From testimony of PW-3, it has come on record that anyone can get false registration on the website Just Dial such as Mark-F and even visiting card of another can be got printed by anyone, so Id. Trial Court also discarded rightly these documents. However, despite rejection of the same, petitioner is still able to show that shop was further let out to the respondent no. 2 by respondent no. 1 and it was done without any prior written permission of the petitioner. The bank record of respondent no. 2 clearly rules out status of respondent no. 2 being of mere employee or servant of respondent no. 1. Hence, Id. Trial Court was right to hold that respondent no. 1 had sublet the shop in dispute to respondent no. 2 unauthorizedly without any written permission of the petitioner. This sub-tenancy

continued till the date of filing of petition before Id. Trial Court.

**e) Leaving of tenanted shop lateron by sub-tenant is of no**

**consequences:-** PW-3 admitted in his cross examination that he had seen respondent no. 2 sitting on the tenanted shop lastly on 31-12-2013 and since 1-1-2014, he is not there in the shop. As it is already held above that respondent no. 2 is proved to be sub-tenant of respondent no. 1, so even if that sub-tenant has vacated the shop subsequently will not be sufficient to dismiss the petition as cause of action had already arisen at the time of filing of petition. Admission of PW-3 that respondent no. 1 or his sons especially Sanjay Bedi have restored their business again from the said shop and now are occupying the same and having control of it will not affect the case of the petitioner as proving of creation of sub-tenancy at one stage itself is sufficient to maintain the case and it is not necessary that it should be continued till the decision of the petition. Otherwise also, when the petition was filed, respondent no. 2 was occupying the said shop as sub-tenant.



f) No business was being run by respondent no. 1 after

sub-letting:- Respondent no. 1 alleged that his firm was running business from shop in question in the name of M/s. Raju Trading Company. In his cross examination RW-1 stated that work of this firm is still going on and not closed from the shop in question. Even, this firm M/s. Raju Trading Company is maintaining bank account. However, neither any such license, income tax return, account books or bank account produced in court by respondent no. 1 to show that it was still running from the shop in question even on the date of filing of petition. Even RW-1 admitted that he has no document to show that M/s. Raju Trading Company was in existence prior to the inception of tenancy. The bank account in the name of M/s. Raju Trading Company was opened after 3-4 years of commencement of tenancy which has already been closed. RW-1 also stated that there is no bank account relating to the business being run from the tenanted shop. He also admitted that TIN of M/s. Raju Trading Company was cancelled on 31-5-2010 and without trade license, no sale purchase is

permissible. PW-2 from Sales Tax Department in his examination in chief alleged that this firm M/s. Raju Trading Company was registered prior to year 2005 vide TIN no. 07220230047 but its registration was cancelled on 31-5-2010. No doubt, the statement of PW-2 cannot be read in evidence as it was not completed but RW-1 in his cross examination had already admitted that registration of this firm M/s. Raju Trading Company was already cancelled. Respondent no. 1 could not bring on record any documentary evidence such as income tax or sales tax record or account books of his firm M/s. Raju Trading Company to show that due to less sale in the shop, he had surrendered the TIN number. Otherwise also, undisputed document produced on 2-2-2017 by Inspector Raju Tripathi, from Trade & Taxes Department Ex. PW4/A to PW4/J (which were exhibited without any objection from side of respondents) proves that TIN of this business of the respondent no. 1 was cancelled apparently as he had stopped running business after sub-letting of shop to respondent no. 2. PW-3 though admitted in his cross examination that there are so many persons who are running their business of garments in

the market without TIN number but nothing is shown by respondent no. 1 that business in the name of M/s. Raju Trading company continued to run without paying any govt taxes or VAT etc.

RW-1 admitted in his cross examination dated 2-5-2018 that he had not gone to the tenanted shop for the last 4-5 years, though he was earlier regularly going there. It means that he had not visited the shop since year 2013 and by that time petition had already been filed in the ld. Trial Court.

RW-1 relied upon some bills Ex. RW1/1 (Colly) for purchase of some items for firm M/s. Raju Trading Company. He also admitted that some of the articles being sold in his shop were taxable items. In these bills, neither the name and address of the seller is given nor any GST/TIN or Sales Tax number of seller or purchaser is mentioned which is necessary to be given. Even no seller who issued these bills was examined. Hence, the same were rightly not relied upon by the ld. Trial Court. From the shop in question, the readymade garments were being sold by M/s. Raju Trading Company. It has come on record that respondent no. 1 was also running one

manufacturing unit in the name of Raju Hosiery and the bills Ex. RW1/1 (Colly) were not issued in respect of any readymade garments but are related to cloths to be used for the manufacturing unit Raju Hosiery belonging to the respondent no. 1.

MCD issued a show cause notice Ex. RW-1/P-2 to respondent no. 2 regarding sealing of shop in question due to non payment of conversion charges of the shop but respondent no. 1 stated that he was paying such conversion charges. Record however shows that these conversion charges started paying by respondent no. 1 after institution of the present petition as admitted by RW-1 in his cross examination.

RW-2 witness from MCD produced office record containing copy of one show cause notice issued to respondent no. 2 in respect of sealing of shop in question by MCD. Ld. Trial Court is right to hold that this show cause notice is presumed to have been issued by a public department after complying with the proper procedure and completion of formalities. Absence of any evidence in the MCD record that this notice was actually served upon respondent no. 2 or not

will not make the same as invalid or non existing or fabricated. Even if the petitioner has produced the original notice in the court and it is presumed that he somehow managed to receive it even illegally, then that will not make this notice invalid qua which there is no doubt that it was issued by MCD. In such situation, it is held that respondent no. 1 was not running any business from the shop in question during the period when it was sublet out by him to respondent no. 2. Subsequent restart of the business again from the said shop will not extinguish cause of action accrued in favour of the petitioner.

- 7) This court is not concerned with the act and conduct of the petitioner regarding taking action against other tenants namely Raj Rani, Radhey Shyam etc. of different shops in the same building for getting the same vacated either by instituting cases, disconnecting electricity connections or by settling the matters as it is totally irrelevant to the present proceedings. Lot of cross examination of PW-3 done in this regard relating to other tenants infact should have been avoided.

- 8) In view of above discussions, I am of the view that there is no merits in the present appeal. Id. Trial Court has correctly appreciated the entire evidence and passed well reasoned judgment. There is no infirmity of any type in the findings given by Id. Trial Court, so while confirming the impugned judgment, present appeal is dismissed with costs of Rs. 25,000/- payable by LR's of respondent no. 1 (present appellants) to the LR's of original petitioner/landlord. LR's of respondent no. 1 are given time to pay this cost and to vacate the suit shop bearing no. IX/7103, Guru Nanak Gali, Gandhi Nagar, Delhi as shown in red colour in site plan filed on Trial Court record within 15 days from today and handover its vacant possession to the landlord, failing which Id. Trial Court can get its possession recovered from them by using coercive action without even giving any notice of any execution application. TCR be returned with copy of this judgment and appeal file be consigned to Record Room.

**Dt- 18-05-2026.**

**(Ashwani Kumar Sarpal)**

**Principal District & Sessions Judge**

**East District, Karkardooma Courts, Delhi..**