

**IN THE COURT OF SH. PITAMBER DUTT :**  
**PRINCIPAL DISTRICT & SESSIONS JUDGE-CUM-**  
**PRESIDING OFFICER, RENT CONTROL TRIBUNAL,**  
**PATIALA HOUSE COURTS, NEW DELHI DISTRICT, NEW DELHI**

RCT ARCT No. 2/2026

CNR No. DLND01-000360-2026

Sh. Jagdish Kumar Rajput (Deceased)  
Through his LR Mrs. Rama Rajput,  
W/o. Late Sh. Jagdish Kumar Rajput,  
R/o. Pvt. Premises 23, 24 & 25,  
Khandelwal Jain Society Compound,  
Jai Singh Pura, Raja Bazar, New Delhi-110001 .....

Appellant

Versus

1. Khandelwal Jain Society  
(Reg. as Society for protection & management  
of Khandelwal Jain Temple & Dharamshala),  
Through its General Secretary  
Sh. Jinender Kumar Jain,  
Jai Singh Pura, Raja Bazar, New Delhi-110001

2. Ms. Arti Mahajan  
D/o. Late Sh. Jagdish Kumar Rajput,  
W/o. Sh. Viresh Mahajan,  
R/o. Tower-12, 11-A, The Ozone Park, Sector-86,  
Faridabad, Haryana-121007

3. Ms. Varsha  
D/o. Late Sh. Jagdish Kumar Rajput,  
W/o. Sh. Amandeep Singh Chawla,  
R/o. B-18-B, 2<sup>nd</sup> Floor,  
Shivam Apartment,  
Ashok Vihar-II, New Delhi-110052 .....

Respondents

Date of Institution : 20.01.2026  
Arguments heard on : 16.07.2026  
Date of Order : 16.07.2026

**Appearances:-**

Sh. Dvijendra Kumar Pandey, Ld. Counsel for the appellant.

Sh. Rajesh Sharma, Ld. Counsel for respondent No.1, joins through VC.

Sh. Rahul Mehta, Ld. Counsel for respondent Nos. 2 & 3, joins through VC.

**ORDER**

1. The present appeal has been filed against the impugned order dated 14.08.2025, whereby Ld. Trial court allowed the respondent/petitioner to withdraw affidavit filed by Sh. Jinender Kumar Jain dated 20.01.2023 and also held that in view of withdrawal of affidavit of Sh. Jinender Kumar Jain, counter affidavit filed by LRs of appellant/respondent Rama Rajput filed on 06.06.2023 becomes infructuous.

2. I have heard Ld. Counsels for the parties, perused the appeal, impugned order as well as record. The grievance of the appellant is that after withdrawal of the affidavit filed by the respondent/petitioner Sh. Jinender Kumar Jain, the Ld. Trial court also held the counter affidavit filed by appellant as infructuous, whereas those affidavits should not have been termed infructuous.

3. The present appeal has been filed U/s. 38(1) of The Delhi Rent Control Act, 1958, which reads as under :

***“38. Appeal to the Tribunal.***

***(1) An appeal shall lie from every order of the Controller made under this Act [only on questions***

*of lawj to the Rent Control Tribunal (hereinafter referred to as the Tribunal) consisting of one person only to be appointed by the Central Government by notification in the Official Gazette:[Provided that no appeal shall lie from an order of the Controller made under section 21.]'*

4. A perusal of Section 38(1) of The Delhi Rent Control Act, 1958 shows that an appeal would lie against every order passed by the Rent Controller under DRC Act.

5. The present appeal filed by the appellant against the impugned order dated 14.08.2025 does not fall under any provision of Delhi Rent Control Act, 1958, because the order dated 14.08.2025 has not been passed under any provision of DRC Act.

6. The said order has been passed only under the general provision of CPC against which an appeal is not maintainable U/s. 38 of DRC Act.

7. Moreover, the impugned order dated 14.08.2025 shows that the respondent/petitioner, who had filed affidavit of Sh. Jinender Kumar Jain on 21.01.2023 sought withdrawal of the said affidavit, which was filed pursuant to the submission made by Ld. Counsel for the petitioner, which is recorded in the order dated 26.09.2022.

8. The appellant herein filed counter affidavit in response to the affidavit filed by Sh. Jinender Kumar Jain. The respondent/petitioner made a request before the Ld. Trial court on 14.08.2025 for seeking withdrawal of the affidavit of Sh. Jinender Kumar Jain filed on 21.01.2023. Separate statement of the petitioner in this regard was recorded and the affidavit of Sh. Jinender Kumar Jain was allowed to be withdrawn.

9. The consequence of withdrawal of the affidavit of Sh. Jinender Kumar Jain is that the counter affidavit filed by the appellant before the Ld. trial court became infructuous for the simple reason that the counter affidavit was filed in response to the affidavit of Sh. Jinender Kumar Jain, which was withdrawn on 14.08.2025.

10. Thus, there appears no infirmity in the order dated 14.08.2025.

11. In view of the above facts and circumstances, I find no infirmity in the order dated 14.08.2025. Accordingly, the appeal filed by the appellant is dismissed. Trial Court Record be sent back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court  
Today i.e. on 16.07.2026**

**(PITAMBER DUTT)  
Principal District & Sessions Judge /  
Appellate Authority Delhi Rent Control Act.  
New Delhi District, Patiala House Courts  
New Delhi.**