

IN THE COURT OF SH. SANJEEV KUMAR AGGARWAL,
PRINCIPAL DISTRICT & SESSIONS JUDGE,
SOUTH-EAST DISTRICT, SAKET COURTS, NEW DELHI

RCT ARCT No.14/2024
CNR No.DLSE01-011201-2024

Mr. Braham Prakash @ Gunnu
S/o Late Chaudhary Chandgui Ram
R/o Property No. 25, Shop at
Ground Floor, Khasra No. 127,
Village, Okhla, New Delhi

.....Appellant/tenant

versus

Mr. Zaheer Ahmad Khan
S/o Mr. Buniyad Ali
R/o 122-C, Main Bazar,
Okhla, New Delhi-110025

.....Respondent/Landlord

Date of Institution : 24.10.2024
Arguments Heard : 05.05.2026
Date of Decision : 03.06.2026

J U D G M E N T

1. By this judgment, I shall decide an appeal filed by the appellant / tenant under Section 38 of the Delhi Rent Control Act, 1958, alongwith an application under Section 5 of the Limitation Act for condonation of delay in filing the appeal, by which the appellant / tenant has challenged the eviction order dated 09.09.2024 passed by the Id. ARC, South-East District, Saket Courts, New Delhi under Section 41 (1) (e) of the Delhi Rent Control Act.

Application u/s 5 of Limitation Act

2. In the application under Section 5 of the Limitation Act for condonation of delay, it is stated that the eviction order was passed on 09.09.2024 and the appellant/tenant has applied for the certified copy of the order alongwith other documents on 24.09.2024 through his newly appointed counsel, when the appellant/tenant came to know about the passing of the eviction order through his previous counsel on 20.09.2024. The certified copy was received by his newly appointed counsel on 09.10.2024 i.e. on the last day of the expiry of the statutory period. The appeal was, thereafter, prepared and the appellant/tenant could not file the appeal within 30 days and there is a delay of 7 days in filing the appeal.

3. No reply of the said application file by the respondent/ landlord.

4. Argument were heard. Considering the reason given in the application. The application is allowed and delay condoned.

Main Appeal

5. It is stated by the appellant / tenant that the appellant is a tenant in respect of the property No.25, Shop at Ground Floor, Khasra No.127, Village Okhla, New Delhi. It is further stated that respondent/ landlord has filed an eviction petition under Section 41 (1) (e) Delhi Rent Control Act seeking eviction of the appellant/ tenant from the said property on the ground of bona fide needs/ requirements and the ld. ARC passed the eviction order dated 09.09.2024.

6. The appellant has challenged the impugned mainly on the ground that:-

(i) the respondent/landlord has stated in the petition that previous eviction petition under Section 41 (1) (a) of Delhi Rent Control Act was pending before the Id ARC, however, the said statement was false as the said petition has been previously withdrawn by the respondent/landlord on 08.09.2022 and thus, the respondent/landlord has concealed the factum of the withdrawal of the said petition, which has effected the decision of the Id. ARC in passing the impugned order.

(ii) the Id. ARC has failed to consider that two separate petition i.e. one under Section 41 (1) (e) of Delhi Rent Control Act and the other petition under Section 41 (1) (a) of Delhi Rent Control Act can be filed only where there is no change of circumstance.

(iii) Ld. ARC has failed to consider that there is no mentioning of details of the property qua consisting of what floor is available to the petitioner to fulfil his wish for the settlement of his son qua the property No.122-C, Main Bazar, Okhla Village, New Delhi-110025.

(iv) Ld. ARC has failed to consider that the petition for eviction was not based on the genuine need but it is a pretext to increase the rent, sell the property at a higher price or to use the property for a different commercial purpose.

(v) Ld. ARC has further failed to consider that the respondent/landlord has no immediate and pressing need for the tenanted premises as the petition under Section 41 (1) (e) of Delhi Rent Control Act has been filed after a long period of 3

years 10 months and 24 days from the first petition under Section 41 (1) (a) of Delhi Rent Control Act.

(vi) Ld.ARC has failed to balance the hardship between the appellant/tenant and the respondent/landlord without considering that the tenant has been in occupation of the premises for an extended period, and that eviction would cause severe hardship if the tenant does not have a viable alternative accommodation.

7. No reply has been filed by the respondent/landlord to the appeal and the Id. Counsel for the respondent/landlord submits that he will argue the case straightaway.

8. Arguments have been addressed by Mr. Tabrez Ahmad Khan, Ld. Counsel for the appellant/tenant and Mr. Gajendra Mohan Chand assisted by Ms.Aditi Chand and Mr. D. S. Saifi, Ld. Counsel for the respondent/landlord.

9. It is argued by the Id. Counsel for the appellant/tenant that the respondent/landlord has filed two separate petitions, one under Section 41 (1) (a) of Delhi Rent Control Act and other under Section 41 (1) (e) of Delhi Rent Control Act. He has falsely stated in the petition under Section 41 (1) (e) of Delhi Rent Control Act that the petition under Section 41 (1) (a) of Delhi Rent Control Act is pending whereas the said petition was dismissed as withdrawn on 08.09.2022 and thus, he has concealed the material fact of withdrawal of the petition under Section 41 (1) (a) of Delhi Rent Control Act and hence, this concealment and misrepresentation amount to a clear abuse of the process of law. He has further argued that the

respondent/landlord has also failed to prove that the property in question is required by him for bona fide need and hence, the impugned order should be set aside.

10. On the other hand, the Ld. Counsel for the respondent/landlord has argued that the respondent/landlord has purchased the property in the year 2016 and at that time he filed a petition only for recovery of the arrears of rent as he could not file the eviction petition under Section 41 (1) (e) of Delhi Rent Control Act as there is embargo of 5 years from the date of purchase of the property in filing a petition under Section 41 (1) (e) of Delhi Rent Control Act. He further argued that the respondent/landlord has not been able to prove that he want the property in question i.e. the shop for his son and he has no other shop. Hence, the Id. Rent Controller has rightly held that the property in question is required by the respondent/landlord for the bona fide need and there is no merit in the appeal and the same is liable to be dismissed.

11. I have heard the arguments and gone through the record. As per Section 14(1)(e) of DRC Act, the landlord can file petition for eviction for bonafide necessity for himself or any member of his family dependent on him. Section 14 (1) (e) of DRC Act is reproduced as under :-

"(e) that the premises let for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation."

12. In order to succeed in a petition for eviction filed under Section 14 (1) (e) of the DRC Act, the petitioner must establish that:-

- i. He is the owner and landlord in respect of the tenanted .
- ii. He requires the premises bonafide for himself or for any member of his family dependent upon him.
- iii. He has no other reasonably suitable accommodation.

13. In [Nirmala Kumari & Ors vs Girish Kakkar & Anr](#) RC.REV. 156/2018 (17th May 2024), Hon'ble High Court of Delhi held in para 27 that:

“The learned ARC is not required to take a magnifying glass and minutely scrutinize the averments made in the Eviction Petition. Once the landlord has stated that he requires the tenanted premises for a particular use, the Courts are required to believe the statement to be true and genuine, unless and until it is shown by the tenant through cogent material that the requirement is fanciful or whimsical. The learned ARC is further required only to sift/comb through the averments made in the leave to defend application and see whether the tenant has established with cogent and material defence, facts which disentitle the landlord from an Eviction order. This Court in "[Sarwan Dass Bange v. Ram Prakash](#)"[2010 SCC OnLine Del 351] has clearly held that:- [Praveen v. Mulak Raj](#), 2023 SCC OnLine Del 7721, "7... The Controller is required to sift/comb through the application for leave to defend and the affidavit filed therewith and to see whether the tenant has given any facts/particulars which require to be established by evidence and which if established would disentitle the landlord from an order of eviction. The test is not of the tenant having controverted/denied the claim of the landlord and thus disputed questions of fact arising; the test is to examine the pleas of facts and then to determine the impact thereof."

14. Now reverting back to the case, as evident from the record the respondent / landlord has filed the petition for eviction on the ground that he required the tenanted premises to settle his

younger son Akram Saifi, who is running a gift shop in the name and style of “ANY SURPRISE ANY TIME” on rent. From perusal of the appeal, it is evident that the appellant has not disputed the said facts.

15. Further from the examination-in-chief of the respondent / landlord, it is evident that respondent has deposed that he required the said shop for his bona fide requirement to settle his younger son Akram Saifi in his lifetime. In his cross-examination also, it is he has stated that he required the tenanted premises for his younger son Akram Saifi as his all other sons are settled. No suggestion has been given to the respondent / landlord that the respondent or his son Akram Saifi has any other property or shop where he can settle his son. Further nothing has come out from the cross examination of respondent landlord that respondent landlord want to increase rent, or sell the property. Neither any evidence has been led by appellant to prove the said facts. Thus, in these circumstances, I do not find any ground to differ from the finding given by the Ld. Rent Controller that respondent / landlord is required the tenanted premises for the bona fide use of his son.

16. As far as the contention of learned counsel for the appellant / tenant that the respondent / landlord has concealed that he has filed a petition under Section 14(1)(a) of DRC Act for eviction against the appellant / tenant and same was withdrawn by him vide order dated 08.09.2022 is concerned, the respondent has categorically stated that he has filed a petition under Section 14(1)(a) DRC Act which was pending in the Court of Mr. Deepak

Vats, learned ARC, South-East District. In my view, he cannot mention that he has withdrawn the petition under Section 14(1) (a) DRC Act as the petition for eviction u/s 14(1) (e) was filed only on 13.07.2022 and thus till that time petition u/s 14(1) (a) DRC was pending. Hence I am not agree with the submission of Ld. Counsel for appellant that there is any misrepresentation.

17. As far as another contention of the learned counsel for the appellant / tenant that the respondent / landlord has filed multiple petitions i.e. earlier filed petition under Section 14(1)(a) DRC Act and thereafter, filed petition under Section 14(1)(e) DRC Act is concerned, first of all, in my view, there is no bar under DRC Act that when a landlord filed a petition under Section 14(1)(a) DRC Act or any other ground for eviction of tenanted premises he cannot file a petition later on for eviction on other grounds. Secondly, I find ssubstance in the contention of Ld. Counsel for respondent / landlord that when he filed petition under Section 14(1)(a) DRC Act for eviction on the ground for non payment of rent at that time five years mandatory period to file petition for eviction on the ground of Bonafide necessity as required u/s 14(1) (6) has not expired as petition under Section 14(1)(a) DRC Act was filed in year 2018, thus at that time he cannot file the petition under Section 14(1)(e) DRC Act.

18. In view of the aforesaid discussion, I held that the appellant has failed to prove that there is any illegality in the impugned order passed by learned ARC. The appeal is without merit and is hereby dismissed.

19. Parties to bear their own costs. Trial court record be sent back with a copy of this order.

20. File be consigned to record room.

Announced in the open Court
today i.e. 03.06.2026.

(SANJEEV KUMAR AGGARWAL)
Principal District & Sessions Judge,
South East District, Saket Courts,
New Delhi.