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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 06.08.2026**# **CNR No. DLHC010282382023**+ **RC.REV. 204/2023, CM APPL. 37576/2023 (Stay) & CM APPL. 46769/2024 (U/O 22 Rule 4 of CPC)**

ANIL KUMAR

.....Petitioner

Through: Dr. M.K. Gahlaut, Advocate
through video-conferencing.

versus

SMT PUSHPA DEVI (DECEASED) THROUGH LRS

.....Respondent

Through:

CORAM:**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958¹**, challenging the **Judgment dated 24.04.2023²** passed by the **learned ACJ-cum-CCJ-cum-ARC, North District, Rohini Court, Delhi³**, in **Eviction Petition** bearing **RC ARC No. 75/2016**, titled "*Pushpa Devi (Deceased) Through Legal Heirs v. Anil Kumar*", whereby the learned ARC has allowed the Eviction Petition under Section 14(1)(e) read with Section 25-B of DRC Act and thereby directed the Petitioner to vacate the **two rooms, one kitchen and common latrine on ground floor of the property**

¹ DRC Act

² Impugned Judgment

³ learned ARC



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bearing No. 228, Sarai Pipal Thala, Adarsh Nagar, Delhi - 110033⁴.

2. Learned counsel for the Petitioner, at the outset, would submit that his challenge to the Impugned Judgment is limited to only two aspects, which are elaborated in the manner as stated below.

3. *Firstly*, learned counsel appearing on behalf of the Petitioner would submit that the Application for leave to defend had been granted in favour of the Petitioner herein on the ground that there was a triable issue with respect to the availability of accommodation to the Respondent herein. He would submit that between the passage of the said Order granting leave to defend and the final Judgment of Eviction, no circumstances had changed, and therefore, the conclusion of the learned ARC to the contrary, i.e., that there was a *bona fide* requirement, could not have been made out and is perverse.

4. He would, *secondly*, submit that, in any event, one of the grounds on which the Eviction Petition was premised was with respect to the need for the premises for the specially-abled daughter who required helpers. He would also submit that since the specially-abled daughter has passed away, there is no *bona fide* requirement that subsists. No other point was argued during oral arguments by learned counsel appearing on behalf of the Petitioner.

ANALYSIS:

5. This Court has heard the learned counsel appearing on behalf of the Petitioner and, with his able assistance, has perused the relevant documents as well as the Judgment impugned herein.

6. Before proceeding to examine the grounds of challenge urged

⁴ Subject Premises



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on behalf of the Petitioner, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the *proviso* to Section 25B(8) of the DRC Act.

7. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***⁵, ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***⁶, and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***⁷, has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

8. The aforesaid principles have also been reiterated and relied upon by the Coordinate Benches of this Court, *inter alia*, in ***Pankaj Pahwa v. Prem Wati & Ors.***⁸, and ***Sanjeev Hiranandani v. Sunny Grover***⁹.

9. In ***Abid-Ul-Islam*** (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25B of the DRC Act, observed that the omission of an appellate remedy against an Order passed by the learned Rent Controller is conscious and deliberate. The jurisdiction conferred upon the High Court is, therefore, one of superintendence over the decision-making process, including the legality and propriety thereof, and does not permit the High Court to substitute its own view for that of the learned Rent Controller merely because another view may be possible on the

⁵ (1998) 8 SCC 119

⁶ (2014) 9 SCC 78

⁷ (2022) 6 SCC 30

⁸ 2024:DHC:9322

⁹ 2025:DHC:11285



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material available on record. The relevant observations of the Hon'ble Supreme Court read as under:

“23. The proviso to Section 25-B(8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.”

10. In ***Pankaj Pahwa*** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in ***Abid-Ul-Islam*** (supra), reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order is vitiated by an error apparent on the face of the record or an absence of adjudication warranting interference.

11. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arriving at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Judgment is vitiated by a jurisdictional error, manifest illegality, material



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irregularity, or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, the exercise of revisional jurisdiction may be warranted.

12. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioner against the Impugned Judgment are required to be examined.

13. The relevant portion of the Impugned Judgment dealing with the aspect of the *bona fide* requirement of the Respondent and the consideration accorded thereto by the learned ARC reads as follows:

“Whether the premises are required bona fide by the petitioner?”

The settled law in this regard is that the requirement must be genuine and reasonable and not just a mere desire of the landlord. Reliance is placed upon the case of G.C. Kapoor v. Nan Kumar Bhasin, (2002) 1 SCC 610. It is settled position of law that bonafide requirement means that requirement must be honest and not tainted with any oblique motive and is not a mere desire or wish. In Dattatraya Laxman Kamble v. Abdul Rasul Moulali Kotkunde [1999] 2 SCR 912, the Court, while considering the bonafide need of the landlord, was of the view that when a landlord says that he needs the building for his own occupation, he has to prove it, but there is no warrant for "presuming that his need is not bonafide". It was also held that while deciding this question, the Court would look into the broad aspects and if the Courts feel any doubt about bonafide requirement, it is for the landlord to clear such doubt.”Further, in the case of Prativa Devi v. T.V. Krishnan, (1996) 5 SCC 353, the concept of how the bona fide need is not a mere desire was discussed. The Court stated that, in a case when possession is sought on the ground of personal requirement, a landlord has to establish his need and not his mere desire. The ground under Clause (e) of the proviso to Sub-section (1) of Section 14 enables a landlord to recover possession of the tenanted premises on the ground of his bona fide requirement. This being an enabling provision, essentially the burden is on the landlord to



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establish his case affirmatively. In the present case the petitioner seeks the suit property on the ground that one daughter of the petitioner aged about 43 years is facing mental health problems and Care Takers are required all the time for her. Further, matrimonial home of another daughter (now deceased) is also in Delhi and she visits frequently. The petitioner requires the suit property for her personal use and for the requirement of her family members.

The respondent in her cross examination has admitted the fact that daughter of the petitioner is having mental disorder and requires two helpers on day to day basis. In fact perusal of the written statement as well as the defence shows that this fact is not denied by the respondent. PW1 stated in his cross examination that he is currently staying with his family on the first floor and his brother with his family is staying on the second floor.

In the present petition, it is an admitted fact that two sons of the plaintiff are occupying two floors i.e. first and second floor with their family in the same building. The suit property is required for the care takers of the daughter who is mentally challenged (differently abled). The suit property consisting of two rooms and a kitchen is required for said daughter and caretakers. This is a bona fide requirement because as she will grow up, the petitioner alone or the family members also cannot be expected to take care of her. Outside help will be a basic requirement. Further, it is also stated that the suit property is required for the daughter whose matrimonial house is in Delhi. As it transpires from the cross examination of PW1, the said daughter is no more as of now, however this does not negate the requirement that the relatives will be visiting the plaintiff and other family members. In fact the respondent witness in her examination admitted that the relatives visit frequently. Since the sons of the plaintiff are living on individual floors, her requirement of entire ground floor is genuine and bona fide. Hence, this Court is of the opinion that the requirement of the petitioner is genuine and bona fide.

The bona fide requirement is also objected on the ground that the aim of the petitioner is to pressurize the respondent and get the suit property vacated and re-let it on escalated rent/want to build a multi-storey commercial complex or sell it to some builder- The respondent has alleged that there is no bona fide need of the petitioner to use the tenanted premises; rather, the petitioner only wants to get the suit property vacated and re-let it on a higher rent. On the other hand, in reply to the written statement, this has been denied by the petitioner and he has reiterated the fact that the tenanted premises is required for the personal requirements of the daughter of the plaintiff and other family members.



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As per the provisions of the DRC Act, after an order of eviction is passed under Section 14(1)(e), the tenant is granted six months' time to vacate the premises and the landlord is required to occupy the same within two months, and the landlord is further disentitled from re-letting or alienating the whole or any part of the premises within three years from the date of obtaining possession from the tenant. Thus, the landlord is not in a position either to sell or re-let the tenanted premises for a period of three years and if a landlord does sell or re-let the premises within the said period then the tenant may proceed against the landlord for restoration of the possession under Section 19 of the Act.

An observation was made in the judgment titled Krishna Chopra & Anr. Vs. Smt. Raksha: 2000 Rajdhani Law Reporter 83. Thus, on the basis of the aforesaid legal propositions, the contention of the respondent is rejected as the same is a mere assertion without any substance. Moreover the contention of the respondent is not tenable because in such kind of cases protection/remedy available/provided for such tenants under the DRC Act itself as they can file petition for repossession if the premises are re-let or transferred by the landlords after evicting the tenant, but certainly the leave cannot be granted solely on this ground. No separate evidence is led by the defendant to prove this allegation. It is well settled law that bald allegation without any material on record to substantiate the same could not be looked into. It is held by the Hon'ble High Court of Delhi in Rajinder Kumar Sharma and Ors. Vs. Leelawati and Ors. (supra) that: 11..... "Only those averments in affidavit are to be considered by Rent Controller which have some substance in it and are supported by some material."

Hence, considering the discussion above, this ground is without merits as this averment is not supported with any proof. Further, even if the plaintiff does any of the act stated, the respondent will have the opportunity to get the possession of the suit property back from the petitioner."

(emphasis supplied)

14. This Court also notes that the learned ARC has accorded due consideration to whether or not there was any other reasonably suitable accommodation available with the Respondent in the following manner:



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“Whether the petitioner has no other reasonably suitable accommodation?”

The law on this point is settled that while deciding the suitability of an alternate accommodation, it should be judged keeping in mind the requirements and suitability of the landlord and not that of the tenant. Tenant will not dictate the terms on the tenanted premises and how the landlord shall use his premises. Reliance is placed upon the case of, *Adarsh Electricals and others v. Dinesh Dayal*, MANU/DE/2782/2010, it was held that: "the concept of alternate accommodation means that accommodation which is reasonably suitable for the landlord, the court would not expect the landlord to sacrifice on his own comforts and requirements merely on the ground that the premises is with a tenant. The problem had to be approached from the point of view of a reasonable man and not that of a whimsical landlord. 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." Further the position of law on the interpretation is also settled. It is subjective and depends on the facts and circumstances of each case. Reliance is placed upon the case of *Prativa Devi v. T.V. Krishnan*, (1996) 5 SCC 353 passed by the Hon'ble Supreme Court. It was held that the landlord is the best judge of his requirement and Courts have no concern to dictate to the landlord as to how and in what manner he should live.

It is settled law that it is not for a tenant to dictate the terms to the landlord as to how and in what manner he should adjust himself, without calling upon the tenant to vacate a tenanted premises. While deciding the question of bonafides of requirement of landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted. When the landlord shows a prima facie case, a presumption that the requirement of the landlord is bonafide, is available to be drawn. It is also settled position of law that the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter and it is no concern of the Courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own. The tenant cannot compel a landlord to live in a particular fashion and method until and unless the requirement shown is totally mala fide or not genuine.

Each property stated by the respondent will be analysed separately-



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- a. Portion between A-B-C-D on site plan PW1/DI- As per the site plan this area consists of two rooms, veranda and a store. As per PW1 in his cross examination dated 14.11.2018, this area is lying vacant. As per the site plan this area comprises of two rooms, common latrine on ground floor. It is proved that out of the three floor two floors are occupied by the two sons of the petitioner who are staying there with their respective families. This area was not vacant at the time of filing the suit but was vacant at the time of cross examination. As per the bona fide requirement, the space is required for the daughter of the petitioner, her care taker, use for the guests and relatives and use of other family members. Considering all the aspects and requirement, this space will not be sufficient for the requirements. It would only be fair and justified if all the families have a separate portion for living comfortably. And it is a matter of fact that as on date both the brothers have their kids so requirement of space would only increase for the family as they would grow up. The petitioner cannot be expected to squeeze in a small space and give up the suit property for the comfort of her tenant. Hence, this space is not a sufficient accommodation for the bona fide requirements of the petitioner.”

(emphasis supplied)

15. Upon a perusal of the Impugned Judgement, this Court does not find itself in concurrence with the submissions made on behalf of the learned counsel for the Petitioner.

16. The first contention urged on behalf of the Petitioner is that since the Application for leave to defend had initially been granted on the issue of availability of reasonably suitable accommodation, the learned ARC could not, at the stage of final adjudication, have arrived at a conclusion that the Respondent had established her *bona fide* requirement. This submission, in the considered view of this Court, proceeds on an erroneous understanding of the nature and effect of an order granting leave to defend.

17. An order granting leave to defend merely signifies that the defence raised by the tenant discloses such facts as require adjudication upon evidence and, therefore, the tenant ought not to be



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denied an opportunity to contest the Eviction Petition summarily. Such an order does not amount to an adjudication, much less a final determination, of the issue in favour of the tenant.

18. The expression “*prima facie*”, by its very nature, signifies a conclusion which appears to be so at the first instance or on the face of the material then available, and is necessarily tentative and provisional in character. A *prima facie* view is not a final adjudication upon the merits of the issue; rather, it is an assessment made at an initial stage for the limited purpose of determining whether the matter warrants further examination. The very nature of such a finding postulates that it is liable to be confirmed, modified or displaced upon a fuller consideration of the pleadings, evidence and material that may subsequently come on record.

19. Consequently, an order granting leave to defend merely signifies that the defence raised by the tenant discloses such facts as require adjudication upon evidence and, therefore, the tenant ought not to be denied an opportunity to contest the Eviction Petition summarily. Such an order does not amount to an adjudication, much less a final determination, of the issue in favour of the tenant. The grant of leave only opens the door for the parties to lead evidence on the triable issue; it does not foreclose the landlord from ultimately establishing, on the basis of evidence, the ingredients necessary for an order of eviction.

20. In fact, to hold otherwise would lead to an anomalous consequence. If the *prima facie* view formed at the stage of considering an application for leave to defend were to be treated as conclusive, there would be little purpose in permitting the parties to



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lead evidence and in requiring the learned ARC thereafter to adjudicate the issues on their merits. The grant of leave to defend is intended to facilitate such adjudication and cannot, therefore, be construed as a determination of the very issue which is subsequently required to be decided after trial.

21. The distinction assumes significance in the present case. The learned ARC, after the grant of leave to defend, had the benefit of the evidence led by the parties, including the cross-examination of the witnesses. The Impugned Judgment records specific findings with respect to the nature and extent of the accommodation available to the Respondent, the fact that her sons were occupying the first and second floors with their respective families, the requirement of accommodation for the specially-abled daughter and her caretakers, as well as the requirement arising from the Respondent's family circumstances. The conclusion arrived at by the learned ARC was thus not based upon the *prima facie* material which existed at the stage of consideration of the application for leave to defend, but upon the evidence which subsequently came on record.

22. It is, therefore, not possible to accept the submission that the learned ARC was bound by the *prima facie* view which had prevailed at the stage of grant of leave to defend. The very purpose of a trial following the grant of leave is to enable the Court to examine whether the issues which warranted such trial are ultimately established or not. A *prima facie* observation at the interlocutory stage cannot be elevated to the status of a final finding so as to render the subsequent trial and adjudication otiose.

23. The Petitioner, therefore, cannot derive any advantage merely



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from the fact that leave to defend had earlier been granted on the issue of alternate accommodation. The subsequent finding of the learned ARC that the Respondent had established her *bona fide* requirement cannot be characterised as contrary to, or inconsistent with, the order granting leave to defend. The two orders operate at entirely different stages and serve different purposes: the former determines whether the tenant should be permitted to contest the eviction proceedings, whereas the latter determines, upon consideration of the evidence, whether the statutory ingredients for eviction have ultimately been established.

24. The said finding, therefore, cannot be said to suffer from any jurisdictional error, perversity or manifest illegality so as to warrant interference in exercise of the limited revisional jurisdiction under the proviso to Section 25B(8) of the DRC Act. At the highest, the submission of the Petitioner seeks a re-appreciation of the evidence and a different assessment of the suitability of the accommodation. Such an exercise, however, falls outside the permissible scope of the present proceedings.

25. The second limb of the challenge is founded upon the subsequent demise of the specially-abled daughter of the Respondent. Learned counsel for the Petitioner would contend that since one of the principal grounds on which the *bona fide* requirement had been pleaded was the requirement of accommodation for the said daughter and her caretakers, the subsequent demise of the daughter necessarily extinguishes the requirement and renders the eviction order unsustainable.

26. This Court is unable to accept the submission in the manner in



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which it has been urged. The requirement pleaded in the eviction petition was not confined to the accommodation of the specially-abled daughter in isolation. The learned ARC, upon appreciation of the pleadings and evidence, found that the Respondent required the premises for herself and her family members and, in particular, for the purpose of accommodating the caretakers required for her specially-abled daughter. The learned ARC further took into account the fact that the Respondent's sons were occupying the first and second floors of the same property with their respective families and that the accommodation available with the Respondent was, in the circumstances, insufficient to meet the requirement pleaded.

27. It is also material that the Impugned Judgment itself takes note of the fact that the daughter who was residing in her matrimonial home in Delhi had subsequently passed away. The learned ARC nevertheless considered whether such subsequent circumstance, by itself, had the effect of negating the *bona fide* requirement and concluded that it did not. The finding was not premised solely upon the continued existence of the deceased daughter's requirement, but upon the overall residential requirements of the Respondent and her family, assessed in the context of the accommodation available to them.

28. More importantly, this Court, while exercising revisional jurisdiction, cannot substitute its own assessment of the residential requirement for that of the learned ARC merely because another view of the evidence may be possible. The question is not whether this Court, sitting as an appellate Court, may have assessed the family circumstances differently. The question is whether the conclusion



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arrived at by the learned ARC is such that it suffers from a jurisdictional error, perversity, manifest illegality or an error apparent on the face of the record. No such infirmity has been demonstrated.

29. The subsequent demise of the daughter, even if taken into consideration, cannot be examined in isolation from the other circumstances which formed the basis of the bona fide requirement. The Respondent's requirement was considered by the learned ARC in the context of the totality of her family circumstances, the occupation of the remaining floors by her sons and their families, the availability and suitability of the other portion, and the requirement for adequate residential accommodation. The Impugned Judgment, therefore, cannot be characterised as one founded upon a requirement which had ceased to exist or as one rendered without consideration of the relevant circumstances.

30. There is yet another aspect which merits notice. The Petitioner has not demonstrated that the learned ARC failed to consider any material piece of evidence or proceeded upon an erroneous proposition of law. On the contrary, the Impugned Judgment reflects consideration of the rival pleadings, the evidence led by the parties, the issue of bona fide requirement and the question of reasonably suitable alternate accommodation. The findings are supported by reasons and are founded upon material which formed part of the record.

31. The contention of the Petitioner, in substance, seeks this Court to reassess the evidence and arrive at a different conclusion regarding the sufficiency and suitability of the accommodation available with the Respondent. Such an exercise would necessarily amount to



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exercising appellate jurisdiction under the guise of revisional jurisdiction, which is impermissible under the proviso to Section 25B(8) of the DRC Act.

32. It is also significant that the statutory protection available to a tenant against any subsequent re-letting or transfer of the premises, as contemplated under the DRC Act, was duly noticed by the learned ARC while dealing with the allegation that the Respondent intended to obtain possession only for the purpose of re-letting the premises at an enhanced rent or otherwise alienating the same. The learned ARC found that the allegation was unsupported by any cogent material and, therefore, could not displace the *bona fide* requirement otherwise established on record. No perversity or material irregularity in the said approach has been demonstrated before this Court.

33. Thus, this Court finds that the learned ARC has undertaken the requisite adjudication on the basis of the evidence available on record and has returned findings on both the essential aspects of bona fide requirement and availability of reasonably suitable alternate accommodation. The findings cannot be said to be so unreasonable, perverse or contrary to the record as would warrant the exercise of the limited revisional jurisdiction vested in this Court.

34. In view of the aforesaid discussion, this Court finds that the Impugned Order neither suffers from any manifest illegality, jurisdictional error, material irregularity, nor perversity so as to warrant interference in the exercise of the limited revisional jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act, 1958. Accordingly, this Court finds no ground to exercise its limited revisional jurisdiction under the proviso to Section 25-B(8) of the



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DRC Act. The present Petition, therefore, does not merit interference.

35. Accordingly, the present Petition, along with pending application(s), if any, stands dismissed.

36. The present Petition is disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 6, 2026/tk/va