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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 28th April, 2026**Pronounced on: 3rd August, 2026*

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CNR No. DLHC014649782015

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RC.REV. 507/2015, CM APPL. 8455/2019 & CM APPL. 79139/2025

M/S GAINDA LAL RAM NARAYAN & ANRPetitioners

Through: Mr. S. C. Singhal and Mr. Parth
Mahajan, Advs.

versus

SHRI NARAYAN SHAMNANIRespondent

Through: Mr. Pradeep Dewan, Sr. Adv. with
Mr. Ashok Popli, Adv.

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CNR No. DLHC015081072015

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RC.REV. 563/2015, CM APPL. 23785/2015, CM APPL. 6966/2016,
CM APPL. 14540/2016, CM APPL. 68805/2024 & CM APPL.
79140/2025

M/S BELI RAM CHEMIST & ORSPetitioners

Through: Mr. Gurinder Pal Singh, Mr. Sidharth
Borah, Ms. Jaya Bajpai, Ms. Maryam
Beg, Advs.

versus

MR. NARAYAN SHAMNANIRespondent

Through: Mr. Pradeep Dewan, Sr. Adv. with
Mr. Ashok Popli, Adv.

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CNR No. DLHC010408082016

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RC.REV. 99/2016, CM APPL. 5209/2016, CM APPL. 68804/2024 &



CM APPL. 78625/2025

SHRI YOGESH JAIN

.....Petitioner

Through: Mr. Amit Sethi, Mr. B. Anand, Mr.
Neeraj Kargeti, Advs.

versus

SHRI NARAYAN SHAMNANI

.....Respondent

Through: Mr. Pradeep Dewan, Sr. Adv. with
Mr. Ashok Popli, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. These petitions have been filed under Section 25-B (8) of Delhi Rent Control Act, 1958¹, assailing the impugned orders whereby the respective applications seeking leave to defend filed on behalf of the petitioners in separate eviction proceedings instituted by the respondent/landlord have been dismissed. The present petitions seek to challenge the orders dated 02.07.2015 [**RC.REV. 507/2015** and **RC.REV. 563/2015**] passed by learned SCJ-cum-RC, Patiala House Courts, New Delhi, and order dated 14.10.2025 [**RC.REV. 99/2016**] passed by learned ARC, Patiala House Courts, New Delhi [hereinafter referred to as 'Impugned Orders']. The demised premises in issue are: -

¹ For short, 'DRCA'



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Sr. No.	Revision Petition	Demised Premises
1.	RC.REV. 507/2015	Shop bearing No.1 and part of first and <i>barsati</i> floor of suit property bearing No. 1, 3 and 5 built on plot No. 1 and 2, Block 91, Bhagat Singh Marg, Lady Harding Road, New Delhi
2.	RC.REV. 563/2015	One Shop bearing No. 1/1 & 1/2 of property bearing No. 1, 3 and 5 built on plot No.1 and 2, Block 91, Bhagat Singh Marg, Lady Harding Road, New Delhi
3.	RC.REV. 99/2016	Shop bearing No.3 of property bearing No. 1, 3 and 5 built on plot No. 1 and 2, Block 91, Bhagat Singh Marg, Lady Harding Road, New Delhi

2. The present petitions have been disposed of by way of a common judgment as the landlord in all these petitions are same and *bona fide* requirement for which the demised premises are required is also the same.

2.1 In **RC.REV. 507/2015**, the impugned order dated 02.07.2015 passed in Eviction Petition No. 36/2014 has been challenged. The prayers sought in the said revision petition read as under: -

“That in view of the above said facts and circumstances, it is therefore, prayed that the present revision petition be allowed and the impugned order dated 02.07.2015 passed by the court of Ms. Kiran Gupta, SCJ-cum-RC, New Delhi, Patiala House Courts, New



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Delhi be set aside and the petitioner be granted leave to defend the eviction petition filed by the respondent.

Any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioners and against the respondent.”

2.2. In **RC.REV. 563/2015**, the impugned order dated 02.07.2015 passed in Eviction Petition No. 35/2014 has been challenged. The prayers sought in the said revision petition read as under: -

“a. call for the records of LD. Civil Judge / Rent Controller, Patiala House Court in Eviction Petition No. 35/2014 titled as Narayan Shamnani vs. Beli Ram Chemist”;

b. set aside the impugned order dated 02.07.2015 passed by Id. RCR whereby, the application for leave to defend of the Petitioner has been dismissed by the Ld. Additional Rent Controller and allow the present petition, thereby, allowing the application for grant of leave to defend, filed by the Petitioner/tenant in respect of the suit premises;

c. any other or further order which this Hon'ble Court deems fit and proper may also be passed in favour of the Petitioner and against the Respondent.”

2.3. In **RC.REV. 99/2016**, the impugned order dated 14.10.2015 passed in E-22/2014 has been challenged. The prayers sought in the said revision petition read as under: -

“a) call the records of Eviction Petition bearing No. E-22/2014 titled as "Shri Narayan Shamnani Vs. Shri Yogesh Jain" decided on 14.10.2015 by Shri Prashant Sharma, Ld. ARC (New Delhi),



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Patiala House Courts, New Delhi;

b) set aside the impugned eviction order dt. 14.10.2015 passed by Shri Prashant Sharma, Ld. Addl. Rent Controller (New Delhi), Patiala House Courts, New Delhi and grant necessary leave to defend to the petitioner for contesting the eviction petition on merits, in order to meet the ends of justice.

c) Pass any other or further order which this Hon'ble Court deems proper in the facts & circumstances of the case, in favour of the petitioner-tenant and against the respondent-landlord.”

FACTUAL BACKGROUND: -

3. The brief facts common to the present petitions and necessary for disposal of these petitions are as under: -

- i. It was stated that the respondent is the owner/landlord of the demised premises in all the subject petitions and had purchased the subject property in October, 1990 and sale documents regarding the same were executed in January, 1991. It is further stated that the petitioners (in all petitions) were tenants under the erstwhile owners, and thereafter, started paying rent to respondent. The demised premises were let out for commercial purposes and portions thereof were let out for residential purposes.
- ii. It was further stated that the respondent had been doing the business of travel agent since 1979. After purchasing the subject property, he shifted his business in the subject property and at the time of filing of subject eviction petitions, he was doing his business in the name of two proprietorship concerns, i.e., M/s Madhur Air Travels and



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M/s Ezee Flight, and running one partnership firm under the name and style of M/s Ezee Travel Solutions from the first floor of the said property. It was the case of the respondent that he was the proprietor of aforesaid M/s Madhur Air Travels and Ms/ Ezee Flight and in the partnership firm-M/s Ezee Travels Solutions, he along with his wife- Smt. Chanda Shamnani were partners. His elder daughter-Madhu Suneja was also helping him in his business and he had been managing his business affairs from one of the rooms at the first floor in the subject property. It was further stated that respondent alongwith his family was residing on the portion of the first floor and on *barsati* floor, his servant was residing.

- iii. It was further stated that respondent's family consists of respondent, his wife, his son and three daughters. His son was stated to be doing business of Tours and Travel in Canada. All his daughters were married. The eldest daughter-Madhu Suneja has two sons namely, Gaurav and Akshay aged 25 and 20 years respectively. The second daughter of the respondent namely Poonam Madnani has two grown up daughters namely Divya and Soumaya and the third daughter of the respondent namely Ranjana Aggarwal has one son namely Rahul Aggarwal aged 24 years and a daughter namely Manvi Aggarwal. It was stated son of the respondent wants to start the business of travel agency in India from the property owned by respondent. With the passage of time, the respondent had acquired knowledge regarding travel trade and for this purpose, the respondent intended to start/shift the business on the ground floor of the property and for



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the said purpose/business, the respondent required the demised premises which were in occupation of the petitioners for setting up an office on the ground floor from where the respondent and his family members had planned that they would start foreign exchange section, international and domestic ticket section, ticket section. It was further stated that in order to run such business, there is requirement of reception area, one meeting room, two cabins for director/partners, pantry, dining area and washroom as well as a strong room will also be required. It was further stated that the respondent had prepared a plan for setting up office as per the requirements stated herein before. The respondent had also applied for the business of foreign exchange.

- iv. It was further stated that for such *bonafide* requirement, respondent had filed separate eviction petitions in respect of the demised premises in occupation of the petitioners for setting up the business of travel agency for himself and other family members on the ground floor of the subject property. It was further stated that the elder daughter of the respondent along with her elder son-Gaurav has been assisting him in the said business and they now wish to actively participate in the same. His second daughter and his grandson-Rahul Aggarwal also intended to join the respondent in the said business. The respondent intended to start such business in the entire ground floor and would, therefore, require reasonably good manpower as all the family members are dependent upon him and his family members would be comfortably able to assist in the



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business as they have shown their willingness to join the said business. It was further stated that the respondent and his dependent do not have any other alternate reasonable accommodation available at their disposal for satisfying their *bonafide* requirement regarding the business of Airline Ticketing, Foreign Exchange, Visa Facilitation and other travel related services except the demised premises in occupation of the petitioners herein.

- v. It was further stated that the premises available at the disposal of the respondent were not at all sufficient for running the business of tours and travel, and the premises available to the respondent in the subject property have been shown in '*green colour*' in the site plan. Respondent also wanted to shift his business and will amalgamate the present business with the business which he and his family members intend to start on the ground floor of the subject property, and same would require him to establish his business separately from his residence for making it more convenient and comfortable for his entire family to use the upper floors of the subject property for residential purposes exclusively. The respondent wanted to convert his first and *barsati* floor of the property for residential use only as the accommodation available with him presently was not sufficient to accommodate other family members. It was further stated that whenever his son comes to India along with his wife and children, the accommodation available with the respondent was not at all sufficient to accommodate them and they have to be accommodated in a cramped accommodation, and respondent faces



great difficulty in the same, and therefore, the respondent is *bonafidely* in need of additional accommodation.

4. It is pertinent to note here that the petitioners had filed their respective leave to defend applications raising various triable issues against the eviction petitions filed by the respondent. On perusal, the triable issues raised in the said applications by the respective petitioners are as follows: -

(a) In application filed by petitioner-Yogesh Jain

- i. The subject eviction petition was not maintainable as various false submissions were made by respondent, and true material facts were concealed and suppressed from the Court.
- ii. The case set up by the respondent was not of *bonafide* requirement but of reconstruction, and modification to make the premises habitable for the himself and his family.
- iii. The petitioner had also raised challenge with respect to the legality of the agreement to sell dated 16.01.1991 by alleging that the respondent is not the owner of the demised premises inasmuch as the said agreement to sell relied upon by the respondent is not registered and properly stamped in accordance with law as the requisite stamp duty has not been paid.
- iv. Neither the son nor the daughters of the respondent are dependent upon him and all his three daughters and sons are married and have grown up children. His son is settled in Canada and has Canadian citizenship and has no intention to come to India or to join the



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alleged business which the respondent is intending to start, and is not dependent upon the respondent either for his livelihood, residence, or for the purposes of the alleged business claimed to be set by the respondent.

- v. It is further stated that the respondent had not disclosed the other properties available with him for satisfying his *bonafide* requirements, and had not approached the Court with clean hands. He had more than sufficient properties available with him viz, were C.P. Cottage (Emporium)-44, Gole Market Circle, New Delhi; and Shop No.9-10, at Bhagat Singh Lane, New Delhi.
- vi. Respondent had intentionally and deliberately filed a wrong/incorrect site plan which is not according to the actual position of the demised premises as he had constructed a basement, and loft on the same land, which are lying vacant.
- vii. Since inception of the tenancy, the petitioner was the tenant of Mr. Bawa Vikram Singh, and the utility bills of the demised premises so far were paid by the petitioner himself.
- viii. Respondent is successfully running his business with his eldest daughter and eldest son of his eldest daughter at the Bhagat Singh Marg, and proper space is available for running his business and no other space is required for running the said business as the available space is sufficient for the alleged business.



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(b) In application filed by petitioners-M/s Gainda Lal Ram Narayan & Anr.

- i. The petitioners had raised issue with respect to maintainability of the subject petitions inasmuch as respondent had failed to plead the necessary ingredients under Section 14(1)(e) of the DRCA, and it was prayed that the same is liable to be rejected under Order VII Rule 11 of the CPC being without any cause of action.
- ii. The respondent's daughter Ranjana Aggarwal is running her own business under the name and style of M/s. Yorks Travel and Forex Services Pvt. Ltd. which is owned by her family wherein her husband and her son – Rahul Aggarwal are Directors and, therefore, she and her family are not dependent upon the respondent for any purpose. The said business has a registered office at Shop No. LG 3-4, Plot No.27, Central Market, Ashok Vihar, Phase-I, Delhi, and same is owned by the family of Ms. Ranjana Aggarwal, and she is residing at F-107, Ashok Vihar, Phase-I, Delhi. It is further stated that the other two daughters – Madhu Suneja and Poonam Madnani are not even residing in Delhi, and both of them are also grown up and in no way, it has been shown that they require the premises for the business purposes.
- iii. The respondent was running his business of travel agency prior to coming into the subject property in question from shop No.5 Bhagat Singh Marg, Gole Market and he is also having another shop No.5 Bhagat Singh Market, Gole Market, New Delhi. Therefore, the



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respondent has two shops in his possession for running his business which constitutes an alternate accommodation.

- iv. The respondent had vacated shop No.1/4 Bhagat Singh Marg, New Delhi, from the tenant M/s. Sambhu Dayal Banwari Lal long back. Thus, he has three shops to run the business in the same building and address of these shops were being shown in the bank accounts and in different organisations.
- v. The respondent is stated to be residing on the first and the second floor of the property and he had falsely stated that he is running his office from the first floor. It is further stated that respondent is in occupation of 2 rooms and big drawing/dining room which he has shown as office/lobby and a room for temple and two toilets and kitchen on the first floor and on room, covered *verandah*, toilet and open terrace with balcony on the second floor. Therefore, the respondent is having sufficient accommodation available with him for his residence as well as for his business.
- vi. The respondent owns a house at Kundli, Sonipat, Haryana, which is registered in the name of his wife and same has deliberately concealed by him.
- vii. A shop bearing no. 9-10 Bhagat Singh Lane, Gole Market, is also owned by the family of the respondent from where a beauty parlour is being run, and respondent is having earning out of the same on collaboration basis.
- viii. The respondent had also let out a shop No. 1/6 Bhagat Singh Marg, Gole Market and the same is presently vacant and is stated to be in respondent's possession.



- ix. The respondent had deliberately not shown the premises already in his occupation either in his working drawing.

(c) In application filed by petitioners-M/s Beli Ram Chemist & Ors.

- i. The respondent had filed the subject eviction petition not on the ground of bonafide need but for the enhancement of future business which is not a ground for bonafide need.
- ii. Entire tale of the respondent about his relatives and need to involve them in so called travel agency business is a sham, and cannot be termed as *bonafide* requirement.
- iii. Respondent has possession of Shop No.1/4 in the same vicinity.
- iv. Respondent also has a shop No.44, Gole Market, New Delhi, which he has deliberately concealed from the Court.
- v. He had let out shop Nos.9 and 10, Shaheed Bhagat Singh Lane to a person for running Beauty Parlour. He has also sold a shop No.150 at Bhagat Singh Lane.
- vi. More than the alleged business of travel agency, the predominant nature of activity of the respondent is to let out and sale purchase of property. There is no plausible reason that the respondent needs the suit premises.
- vii. In the entire layout plan, the respondent has not stated as to how his son and daughters are going to be accommodated in alleged business. The respondent had not disclosed the aforesaid shops which are in his possession and situated in Bhagat Singh Market and Bhagat Singh Lane and Bhagat Singh Marg.



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- viii. Respondent had failed to show as to how his family members are dependent upon him with respect to the *bonafide* requirement of the demised premises.
- ix. It is the case of these petitioners that the *bonafide* requirement of the respondent is his mere desire to get the demised premises vacated from the petitioners, who are running their business from the said demised premises and have no other source of livelihood, in case, they are evicted from the same.

5. In response to the application seeking leave to defend filed on behalf of the petitioners, the respondent had refuted the aforesaid averments and had submitted that no triable issues have been raised on behalf of the petitioners and their applications are devoid of any merit. It was stated that his grandson-Gaurav has already been assisting him in his alleged business; however, he is presently doing a temporary job in a Call Centre in Gurugram, Haryana, and intends to leave the said job permanently to actively participate in the proposed business of the respondent. It was further stated by the respondent that other grandson-Rahul Aggarwal is also willing to join his business. It was the case of the respondent that he has no concern with the business of his son run in Canada. It was further stated that the respondent intends to shift his commercial activities from upper floors to ground floor to enable him to enjoy the upper floor for residential purposes exclusively, and to accommodate his entire family members during their visit and stay with him in India.

5.1. It was stated that the Shop No. 5, Bhagat Singh Marg, is a part of the property owned by the respondent and is in under the tenancy of M/s Karachi



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Halwa House who was inducted as a tenant by the erstwhile owner. Further Shop No. 5, Bhagat Singh Market, Gole Market, is not owned by the respondent and is owned by someone else and is occupied by Karachi Hair Dressers. The respondent owns the entire property bearing 370 sq. yds. which is numbered as 1, 3, and 5 Bhagat Singh Marg, whereas shop No. 5 is a part of the property owned by the respondent and is under the tenancy of M/s. Karachi Halwa House and is on the ground floor. It is further stated that it is only for the sake of convenience that respondent has given his correspondence address as “5 Bhagat Singh Marg, Gole Market, New Delhi” as he is residing on the first floor of the said property.

5.2. It is further stated by the respondent that shop No.1/4 Bhagat Singh Market is under the possession of M/s Midair Express (P) Ltd. from where the said company is running its business. The said shop was let out to M/s Mid Air Express by previous landlord before the entire property was sold to the respondent. The daughter of respondent-Poonam is one of the directors in the said company besides the other directors who are not his family members. The said premises is under the tenancy of the said company, and the respondent has no concern with the same except being owner of the said property.

5.3. It is further the case of the respondent that the residential flat at Kundli, Sonipat, Haryana is in the name of his wife and is lying vacant. As the said house is situated outside Delhi, the same is not suitable for the respondent to use it for commercial purposes. The premises/shop nos. 9 and 10, Shaheed Bhagat Singh Lane, New Delhi, are two garages being purchased and owned



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by respondent's son and the said shops have been let out by his son to Rajni Sethi Beautician in the month of April, 2013 and the respondent has no concern with the said shops. Further, Shop No. 1/6 Bhagat Singh Marg, Gole Market, New Delhi is under the tenancy of M/s Explore India Travel Organiser for more than 10 years, and the said shop is not available with him. It is further stated, in the reply, that respondent's son is settled in Canada and is running business of travel agency and in order to promote tourism in India is sending tourist for which respondent's firm make arrangement for hotel bookings, transportation, site seeing etc., but for all intents and purposes, his son has his own independent business and the respondent has nothing to do with the same. The respondent intended to shift his commercial activities from upper floor to ground floor to enable him to enjoy the upper floors for residential use exclusively for accommodation of his family members, who frequently visit India, as hardships and inconvenience, on account of meagre space on upper floors for residence, was caused to them.

5.4. It is further stated that one commercial property no. 2E/11, Jhandewalan Extn. New Delhi, was inherited by the petitioner-Yogesh Jain and the entire ground floor of the said property is in possession of said petitioner and is lying vacant. The said commercial property is situated on the main road which is more suitable for the petitioner-Yogesh Jain to start his business.



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Subsequent Events' Applications

6. At this stage, it is pertinent to note that during the pendency of the present petitions, applications, **CM APPL. 45244/2023 in RC. REV. 563/2015 and CM APPL. 45245/2023 in RC. REV. 99/2016**, were filed by the petitioners-tenants seeking leave of the Court to place on record subsequent events. The learned Predecessor Bench of this Court *vide* order dated 07.12.2023 had allowed the aforesaid applications on the submission of learned counsel for the respondent that the same may be considered as per law. The same was, however, without prejudice to the rights and contentions of the respondent.

6.1. In the aforesaid applications, it was stated that the respective applicants got to know that the respondent/landlord had, during the pendency of the instant petitions, got the vacant and peaceful possession of as many as five shops which were situated on the ground floor in the same locality and said shops are lying vacant and are more than enough to meet the alleged *bonafide* requirement portrayed by the respondent. It was further stated that the respondent despite getting the possession of the aforesaid five shops had not utilised any of these shops to meet his alleged *bonafide* requirement. It was further stated that the respondent has available with him shop No.1/6, Bhagat Singh Marg, Gole Market, New Delhi (300 sq. ft.), which was earlier leased out by him to one M/s Explore India Travel Organiser by Lease Agreement dated 31.03.2004 as the vacant possession of the said shop was handed back to the respondent by lessee in 2022, and the same has since been lying vacant and the respondent had not put the same to any alleged use.



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6.2. It was further stated that the petitioners further got to know that the daughter of the respondent-Ranjana Aggarwal, for whom *bonafide* requirement was projected in the subject eviction petitions, owns and is in possession of the two commercial shops situated in Ashok Vihar, Delhi, and details of the said shops were, **(i) Shop No. LG-3, 27 Central Market, Ashok Vihar, Delhi-110052 admeasuring 205 sq. ft. [Kindly see Agreement to Sell dated 29.1.2010 enclosed as Annexure C]; (ii) Shop No. BF-4, Central Market, Ashok Vihar, Delhi-110052 admeasuring 147 sq. ft. [Kindly see Agreement to Sell dated 3.10.2011 enclosed as Annexure D].** It was further stated that the aforesaid shops were lying vacant and were more than suitable to meet the alleged requirement of the respondent as portrayed in paragraphs 18(a)(iii), (iv) and (v) of the Eviction Petition. These facts were not disclosed by the respondent at the time of filing of the eviction petition and even at subsequent stages of the proceedings of the present case.

6.3. It was further stated that grand-son of the respondent-Rahul Aggarwal based in Delhi, who intended to join the business of the respondent, has permanently settled in Ontario, Canada, since 2018. Further that, the respondent owns and manages his Facebook page under the name “Ezee Flight”, and said page shows that he is no more residing in New Delhi, India, but is rather living in Toronto, Canada, thus, the *bonafide* requirement as stated in the eviction petition by the respondent for himself and his family members has ceased to exist.



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6.4. Subsequently, other applications, **CM APPL. 68805/2024 in RC. REV. 563/2015 and CM APPL. 68804/2024 in RC. REV. 99/2016**, were also filed on behalf of the petitioners-tenants seeking to place on record documents in relation of subsequent event pertaining to the respondent/landlord, wherein he had applied for removal of his license of shop No. 44, Gole Market, New Delhi. It was stated in these applications, that this shop is available to the respondent as an additional alternate accommodation and the application for renewal of license filed on behalf of the respondent shows that the said shop is in use and occupation of the respondent/landlord. It was further stated that perusal of the eviction petition filed by the respondent shows that the *bonafide* need projected by the respondent was not for his married daughters but was for expanding his travel agency business which he was already doing alongwith his wife. It was further stated that on 21.11.2024, the petitioners came to know about a letter dated 17.09.2024 which is a communication addressed by NDMC, New Delhi Municipal Corporation to the respondent/landlord regarding renewal of the NDMC shop no. 44 of Gole Market Area, New Delhi. It is the case of the petitioners that by way of this letter, the respondent admittedly owns yet another shop at Gole Market and details of the said shop were deliberately withheld and not disclosed in the subject eviction petition filed against the petitioners. It is further stated that in case the stand of the respondent that they had surrendered their rights with respect to the said shop No.44 in year 2000 in favour of a third party is taken to be on its face value then also the letter dated 17.09.2024 clearly demonstrates that the said shop was all along under the occupation and in possession of the respondent and same was not disclosed by him in the eviction petition. Despite being the said shop



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available to the respondent, he had set up a false version in the eviction petition to get the petitioners/tenant evicted. It is further stated in the application that the aforesaid facts had come to the knowledge of the petitioner only on 21.11.2024 and owing to the said reason the same could not be pleaded earlier.

6.5. In response to the aforesaid stand of the petitioners in the aforesaid applications, with respect to availability of shop no. 44, learned Senior Counsel for the respondent/landlord had reiterated his contentions that the rights of the said shop were transferred in the year 2000, and it is likely that the substitution of the name of the new owner of the premises/shop has not been done. It is further submitted by the learned Senior Counsel for the respondent that said shop no. 44 has now been auctioned by NDMC and relevant document dated 29.05.2019 has been placed on record by the respondent along with the reply filed by the respondent in respect of the said application. Further contentions raised on behalf of the respondents regarding the subsequent events have been noted in the submissions made by learned Senior Counsel for the respondent.

Submissions on Behalf of the Petitioner-Yogesh Jain in RC.REV.99/2016

7. Learned counsel for the petitioner has submitted that learned ARC has failed to appreciate that the respondent had concealed material facts and has not approached the Court with clean hands. It is further submitted that the children of the respondent are not dependent upon him inasmuch as the son of



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the respondent is well settled in Canada and is running his independent business there. The daughters of the respondent are married and are not dependent upon him. The alleged *bonafide* requirement for grandchildren is false and concocted. It is pointed out that, in the pleadings, there is no averments with respect to the dependency of the family members, who allegedly would join the business of the respondent. The said family members have their independent spaces available with them, and, even if, they wish to run independent businesses or join the alleged business of the respondent, they do not require the demised premises. From leave to defend application filed by the petitioner, it is pointed out that respondent is running his business with his elder daughter and his grandson (elder son of said elder daughter) from Bhagat Singh Marg, Gole Market, New Delhi, and proper space is available with them for running such business. It is further submitted that the averments/contentions of the respondent regarding *bonafide* requirement are contradictory inasmuch as the respondent had on one hand shown requirement for himself and on the other hand, he is alleging *bonafide* requirement for his son, daughter and grandsons, who are not at all dependent upon him. Therefore, the subject eviction proceeding with respect to alleged *bonafide* requirement is not maintainable. It is further submitted that the respondent wants to reconstruct and modify the demised premises for making the same habitable for himself and his family members, and therefore, the petition under Section 14(1)(e) would not be maintainable and the respondent ought to have initiated proceedings under Section 14(1)(g) of the DRCA, and in such case, summary procedure in terms of Section 25B of DRCA would not be applicable.



7.1. It is further submitted that the respondent had not disclosed material facts with respect to availability of alternate suitable accommodation and such concealment and suppression of material facts would disentitle the respondent from seeking eviction of petitioner from the demised premises. It is further submitted that respondent's son had let out shop Nos.9 and 10, Bhagat Singh Lane in April, 2013 (just one year prior to the filing of subject eviction petition) and the said shops are now lying vacant and can be utilized by the respondent for satisfying his *bonafide* requirement. It is the case of the petitioner that the respondent had not disclosed that his son is a Canadian citizen who himself being owner and landlord of the shop Nos. 9 and 10, Shaheed Bhagat Singh Lane had leased out his own properties in 2013.

7.2. It is further submitted that *bonafide* requirement so projected by the respondent is nothing but a mere fanciful desire and the same even as per the averments made in the eviction petition is for additional accommodation. It is further submitted that the respondent has not disclosed anything regarding availability or non-availability of commercial space with his sons-in-law and their incapability, both financial and otherwise, to maintain their respective wives and families. It is further submitted that the married daughters and their children cannot be considered as dependent(s) upon the respondent for requirement of any commercial accommodation especially when there is no averment that their respective husbands have no alternate suitable accommodation of their own. It is further submitted that the subsequent events that have transpired during the pendency of the present petition have been allowed to be placed on record by learned Predecessor Bench of this Court *vide* order dated 07.12.2023. It is pointed out that the respondent had



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during the pendency had acquired additional vacant shops, i.e., shops bearing no. 5A, 3/1, 1/5A, 1/5, 1/3, on ground floor in the same locality which raises doubt about the necessity of evicting the petitioner. It is further pointed out that the respondent has recently got possession of Shop No. 1/6 Bhagat Singh Lane, and, yet no use of the said shop for the purported business expansion, cast further doubt on grounds on which eviction of the petitioner has been sought by the respondent. It is further submitted that respondent's daughter own shop(s) which are suitable for satisfying their *bonafide* need, and the same was disclosed in the eviction petition by the respondent. It is further submitted that the grandsons of the respondent have permanently settled abroad and the respondent has himself moved to Canada. Therefore, the alleged requirement of the demised premises by the respondent is not *bonafide*.

7.3. Learned counsel of the petitioner has placed reliance on a judgement in **Smt. Vijay Sharma Through LRs v. Shri Raj Kumar Ahuja, RC.REV. No. 298/2017**, to contend that suppression practiced by landlord of reasonably suitable accommodation capable of satisfying the requirement pleading which the tenant is sought to be evicted is antithesis to statutory stipulation of *bonafide*, and once doubts are caused on the *bonafide* of landlord in filing the petition for eviction, no error can be found in the order of grant to leave to defend.

7.4. Learned counsel for the petitioner further placed reliance on **Deepak Gupta v. Sushma Aggarwal**, to contend that in view of the said settled legal position, the reasonability of the suitable accommodation already available to



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the landlord is one of the potent grounds which enables this Court *seisin* of eviction proceedings to decide as to whether the provisions of proviso (e) to Section 14(1) is attracted or not. It cannot be said that the availability of the accommodation already with the landlord as inconsequential unless the Controller arrives at the finding that the said accommodation is not reasonable or suitable one.

7.5. Learned counsel for the petitioner has further placed reliance on following judgments: -

Sr.No.	PARTICULARS	LEGAL PREPOSITION	PARAS
1.	² "Sandeep Kumar Vs. Nihal Chand"	<i>It mandates in law that party is required to approach the court with clean hands by making full disclosure of all the facts. Respondent has inter alia not disclosed that he has always been in possession of said two shops, therefore, he has not made bonafide and correct statement in his eviction petition. No litigant can derive benefit from court of law of his own wrongs.</i>	27, 29, 30 & 32
2.	³ "Bhim Singh Saini Vs. Preeti Gupta".	<i>Even though the married daughters continue to be member of the family after marriage, but she ceases to be directly dependent on the father once she moves to her matrimonial home. She may have right of succession under Statute, but cannot be treated as member of family dependent on the</i>	8, 9 & 10

² 207 (2014) DLT 104

³ 223 (2015) DLT 303



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		<i>landlord for the purposes of eviction of tenant. Once the daughter gets married, she would be dependent on her husband rather than on her father.</i>	
3.	⁴ Kizhakkayil Suhara & Ors. Vs. Manhantavide Aboobacker	<i>Where the landlord bonafidely requires the building for the member of his family, it must be shown that such member of his family is dependent on him. The question as to whether the daughter and son in law of with three children living separately could be said to be dependent on the landlord is required to be tested in trial.</i>	2, 5, 6, 8 & 9
4.	⁵ “Deena Nath Vs. Pooran Lal”	<i>The term bona fide or genuinely refers to a state of mind. Requirement is not a mere desire. The degree of intensity is much higher than in mere desire. The phrase ‘required bona fide’ is suggestive of legislative intent that a mere desire which is the outcome of a whim or fancy is not taken note of by the rent control legislation.</i>	16 & 17
5.	⁶ “Devinder Kumar v. Nachhattar Singh”	<i>If the affidavit filed by the tenant discloses such facts as would disentitle from obtaining an order for the recovery of immediate possession, the Controller would grant leave to tenant to contest the landlord’s petition for eviction.</i>	6 & 8
6.	⁷ “Shanti Devi Vs Rajesh Kumar Jain & Anr.	<i>Merits of the rival contention ought not to be ventured into while adjudicating leave to defend. Apex</i>	2, 3 & 4

⁴ (2001) 8 SCC 19

⁵ (2001) 5 SCC 705

⁶ AIR 2015 SC 2432

⁷ (2015) 2 SCC 158



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		<i>Court while setting aside the eviction order passed by Ld. ARC, Delhi has held that since the landlords need the property in question to expand their business which was considered as fair dispute requiring trial and resultantly tenant was granted leave to defend.</i>	
7.	Judgment dt. 13.06.2014 passed by Hon'ble High Court in RC. REV. No. 109/2013 "Sudershan Kumar Vs. Harish Chand Garg".	<i>order and granting leave to defend, held that bonafide requirement should be in presenti and must be manifest by actual need which would evidence the court that it is not mere fanciful or whimsical desire. Court is duty bound to examine not merely the requirement of landlord as pleaded in the eviction petition, but also whether any other reasonably suitable non-residential accommodation in his occupation in the City, is available? Hon 'ble High Court while referring to various judgment of Apex Court inter alia "Charan Das Duggal Vs. Pramanand", M.M. Quasim Vs. Manohar Lal (3 Bench), "Precision Steel & Engineering Works Vs. Prem Deva Niranjana Deva Tayal ", has held that when leave to defend is sought, tenant must make out a prima facie case raising such pleas that triable issue emerges and the same is sufficient for grant of leave. The test is the test of triable issue and not its final success in action. * Above judgment has also been upheld by Apex Court vide Order dt. 13.10.2014 passed in SLP(C)</i>	39, 40, 41 to 43 & 46



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		No. 26590/2014.	
8.	⁸ “Vijay Kumar Ahluwalia Vs. Bishan Chand Maheshwari”	<i>It is a settled principle of law that while considering the grant of leave to contest the eviction proceedings under the Rent Laws, the Authority/Court is not expected to examine the merits and demerits of the grounds raised in the application for grant of leave to contest and if the Authority/Court finds that the grounds raised prima facie disclose a defence which, if accepted, may result in non-suiting the landlord from claiming eviction, the tenant is entitled to obtain leave to contest the eviction proceedings on merits.</i>	7, 17, 18, 19 & 21
9.	Jai Prakash Gupta (D) thru Lrs Vs Riyaz Ahamad ⁹	<i>It is true that a suit or an original proceeding is to be tried in all its stages on the cause of action as it existed on the date of its commencement. The only exception to this rule is that a Court may take notice of events, which have happened since the institution of the suit or the original proceeding and grant relief to the parties on the basis of the altered conditions, is applied in cases where it is shown that the original relief claimed has, by reason of subsequent change of circumstances, become inappropriate or that it is necessary to base the decision of the Court on the altered circumstances in order to shorten litigation to do complete justice between the parties.</i>	16 to 21

⁸ AIR 2017 SC 792

⁹ 2009 (13) SCALE 486



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10.	Judgment dt. 27.09.2019 passed by Hon'ble High Court of Delhi in RC.REV, 265/2015.	<i>Court can take into consideration subsequent events inter alia availability of vacant possession.</i>	9 & 10
11.	¹⁰ Union of India & Ors Vs. S.K Kapoor	<i>If a subsequent Coordinate Bench of equal strength wants to take a different view, it can only refer matter to a larger bench, otherwise the prior decision of a coordinate Bench is binding on subsequent Bench of equal strength.</i>	9
12.	¹¹ Official Liquidator vs. Dayanand & Ors.	<i>If one thing is more necessary in law than any other thing, it is the quality of certainty. The quality would totally disappear if judges of coordinate jurisdiction in a High Court start overruling one another's decision. The position would be equally bad where a judge sitting singly in the High Court is of the opinion that the previous decision of another single judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench.....</i>	78 to 80, 82, 83, 85

¹⁰ (2011) 4 SCC 589

¹¹ (2008) 10 SCC 1



Submissions on Behalf of the Petitioner-M/s. Beli Ram Chemist and Ors.
in RC.REV.563/2015

8. Learned counsel for the petitioners has submitted that learned ARC while dismissing the application seeking leave to defend filed by the latter had failed to appreciate the triable issues raised by them. It is submitted that the respondent is the owner of shop bearing No. 1/4 in the same vicinity and the same was deliberately concealed by him. It is further submitted that in response to the same, it was averred in the reply filed to application seeking leave to defend that, said shop is under tenancy of M/s Mid Air Express and the same constitutes a triable issue as to whether the said shop is available with the respondent and suitable to meet his alleged *bonafide* requirement. It is further submitted that the respondent had also concealed that he has a shop bearing No. 44, Gole Market, New Delhi, available with him. It is pointed out that in response to the same, it was asserted that the said shop was allotted to respondent and his wife in 1990 by NDMC and in the year 2000, they had surrendered their rights in the said shop in favour of one Ravinder and his wife, who thereafter, became licensee under NDMC and were running their business under the name and style of M/s Centre Point Cottage and Handicraft. This, as contended by learned counsel, constitutes triable issue. It is further submitted that the respondent/landlord had deliberately concealed material facts with respect to availability of alternate suitable accommodation available at the disposal of respondent thereby, casting aspersions over the alleged *bonafide* requirement as projected by him. It is the case of the petitioner that the alternate accommodation available with the respondent is to



be tested on the touchstone as to whether the respondent/landlord had approached the Court with clean hands.

8.1. It is further submitted that, during the pendency of the present petition certain subsequent events had transpired which had bearing on the outcome of the present petition, and same were earlier not in knowledge of the petitioners. It has been argued that said events were concealed by the respondent and have been therefore, placed on record by way of applications, **CM APPLs. 45244/2023 & 68805/2024**, filed by the petitioners, as noted hereinbefore. It is further the case of the petitioner that, in the eviction petition, respondent had averred that neither he nor his family members owned any other immovable property in Delhi. However, subsequently it was revealed that daughter of respondent-Ranjana owned two shops in Ashok Vihar, Delhi which were apparently suitable to meet the projected *bonafide* requirement of the respondent. It is further pointed out that during the pendency of the present petition, the respondent himself had shifted and settled in Canada and is no more residing in Delhi. Therefore, the *bonafide* requirement of the respondent to start the alleged business does not sustain. It is further submitted that the respondent has in his possession shop No.1/4 situated in the same vicinity and which is a part of the subject property. It is pointed out that, as per respondent, said shop is in occupation of M/s Midair Express Pvt. Ltd., and his daughter-Poonam Madnani is a director in the said entity. Further, said shop was in litigation as M/s Shambhu Dayal Banwari Lal, who were tenants under the respondent's vendor-Bawa Vikram Singh (from whom the respondent had purchased the subject property), claimed that they had never surrendered their tenanted premises portion (said shop) to Bawa Vikram



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Singh and they have also succeeded in the suit under Section 6 of the Specific Relief Act, 1963, filed by them, and an execution petition is pending for recovery of the possession of the said shop. It is the case of the petitioners that the respondent had obtained the possession of the said shop from M/s Shambhu Dayal Banwari Lal long back and said fact was not disclosed by him in the eviction petition. It is further submitted that with respect to other portion, stated to be in possession of M/s Karachi Halwa House, during the pendency of the present petition, the respondent has instituted a suit, **CS (COMM) 226/2021**, under Section 6 of the Commercial Courts Act, 2015, for recovery of Rs. 20,53,553/- as well as for possession of shop situated at 5, Bhagat Singh Marg, New Delhi, from the said tenant-M/s. Karachi Halwa House. It is further submitted that the utility bills placed on record by the respondent with respect to the said shop situated in Gole Market are for the month December 2014. It is further the case of the petitioners that the respondent had not placed on record any Income Tax Return with respect to alleged business run by him.

Submissions on Behalf of the Petitioner-M/s. Gainda Lal Ram Narayan in RC.REV.507/2015

9. Learned counsel for the petitioners has submitted that the respondent had filed the subject eviction proceedings in respect of demised premises which are residential-cum-commercial in nature, and he has similar accommodation to that of the demised premises available on the first floor and second floor of the property. The contention with respect to having a large a number of family members was existent since the date of the purchase



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of the subject property by the respondent. The respondent had portrayed a false case that he has to run business from residential portion of the property by changing the same to commercial property and owing to the said reason subject proceedings were initiated. It is pointed out that respondent has stated that he has shifted his business from residential portion of the property to the ground floor.

9.1. It is pointed out that in paragraphs 18 (a) (iii and iv) of the subject eviction petition, the respondent had set out a case that the demised premises are required for setting up business on the ground floor of the property and the same are also *bonafidely* required for his son, who is already settled in Canada and has business of 'tour and travels' of his own. It is further pointed out that in the eviction petition, the respondent had stated that his son is also having business related to travel and tours in Canada and the respondent has no other reasonable suitable accommodation available with him in Delhi, and the premises available with respondent are not at all sufficient for running the alleged business. It is the case of the petitioners that, in application seeking leave to defend filed by them, it has been stated, in paragraph nos. 10 and 11, that Shop No. 5. Bhagat Singh Marg, Gole Market, New Delhi, where alleged Karachi Halwa House is being run, is a two-side open, and such a property is available with the respondent for satisfying the alleged *bonafide* requirement portrayed in the subject petition as said shop is lying vacant. It is further the case of the petitioners that the respondent is already having two shops in his possession in Bhagat Singh Market and Bhagat Singh Marg, Gole Market, New Delhi, respectively from where he is already running his business. The petitioners have relied upon several documents to demonstrate that the



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respondent possesses alternate suitable accommodation for satisfying his *bonafide* requirement. Attention of this Court has been drawn towards the following averments made in paragraphs 10 and 11, 17, 19 of the application seeking leave to defend filed by the petitioner: -

“10. That so far as the Petitioner is concerned, he is running his business of travel agent prior to coming to the property in question and he himself thereafter started business in Shop No. 5, Bhagat Singh Marg, Gole Market, New Delhi and is also having another Shop No. 5 at Bhagat Singh Market, Gole Market, New Delhi. Thus he is already having two shops in his possession from where he is running the business.

11. Similarly, he is also having another big shop No. 4, Bhagat Singh Market, New Delhi which he got vacated from the tenant M/s. Shambu Dayal Bhanwari Lai long back thus the Petitioner has three shops to run the business in the same building and address of these shops is being shown in the bank accounts and in different organisations. So far as the first floor and second floor is concerned, it is his residence and he has falsely stated that he is running the office from the first floor. It is submitted that the first floor when occupied by him, his one unmarried son and two unmarried daughters were also residing in the same premises. It is submitted that the Respondent is in occupation of two rooms and big drawing dinning which he has shown as office, lobby and a room for temple and two toilets and kitchen on the first floor and one room, covered verandha, toilet and open terrace with balcony on the second floor as per his own showing and as per the plan filed by him. The petitioner is thus having sufficient accommodation available with him for residence as well as for the business.

17. That the Petitioner is also not entitled to maintain the present petition on account of the concealment of true and material facts as the Petitioner has not disclosed that he is in possession of Shop No. 5, Bhagat Singh Market, Shop No. 5 Bhagat Singh Lane and Shop No. 9 - 10 at Bhagat Singh Lane and Shop No. 1/6 Bhagat Singh Marg, Gole



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Market, New Delhi as stated above and as such if the respondent is permitted to prove all above, it would certainly non-suit the Petitioner.

19. That even otherwise It is submitted that the said working drawing has been shown after taking possession from the four tenants and the Petitioner has deliberately not shown the premises already in his occupation either in this working drawing or disclosed even in the eviction petition and how those are insufficient for business.”

9.2. It is further submitted that the respondent has not placed on record any rent receipt issued to Karachi Halwa House in respect of shop No. 5, Bhagat Singh Marg, Gole Market to show that the said shop is not in his possession. It is further submitted that no lease agreement between the respondent and Karachi Halwa House has been placed on record to show that the subject shop was not in respondent’s possession at the time of filing of the subject eviction petition. It is the case of the petitioners that the concealment of such facts by the respondent at the time of filing of eviction petition shows that the requirement projected by the respondent was not *bonafide*. It is further pointed out that, in reply/response to leave to defend application filed by the petitioners following stand was taken by the respondent: -

“10. Para No. 10 is not denied to the extent that the petitioner is engaged in tour and travel business even prior to coming to the property in question. It is submitted that Shop No.5 Bhagat Singh Marg, Gole Market, New Delhi is a part of the entire property owned by the petitioner and in the said shop one tenant namely M/s. Karachi Halwa House is in occupation thereof, who was inducted as a tenant by the erstwhile owner. It is submitted that as far as shop No.5 Bhagat Singh Marg, Gole Market, is concerned, the same is not owned by the petitioner and is owned by some one else and is occupied by Karachi Hair Dresser. It is submitted that the petitioner Owns the entire property measuring 370 sq.yds., which is numbered as 1, 3 & 5, Bhagat Singh



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Marg whereas shop No.5 is part of the property owned by the petitioner which is under the tenancy of Karachi Halwa House and is on the ground floor. It is not out of place to mention here for convenience sake, the correspondence address is given as 5-Bhagat Singh Marg, Gole Market, New Delhi, by the petitioner who is residing on the first floor. Hence the respondent is falsely alleging that the petitioner has two shops in possession.

11. Para No.11 of the application is wrong and denied. It is wrong that the petitioner the possession of another big shop bearing No.1/4, Bhagat Singh Market, New Delhi, which he got vacated from the tenant M/s. Shambhu Dayal Bhanwar Lal as alleged. It is also wrong to allege that the petitioner has three shops to run the business in the same building and address of these shops is being shown in the bank account and in different organizations as alleged. The contentions raised are quite vague and uncertain. It is submitted that shop No.1/4 Bhagat Singh Marg and not Bhagat Singh Market as alleged by the respondent, is under the possession of M/s. MidAir Express (P) Ltd from where the said company is running its business which was let out by the previous landlord to them before selling of the entire property to the petitioner. It is not out of place to mention here that since the inception of tenancy, one of the daughters of the petitioner namely Ms. Poonam Kumari is the director of the said company besides other director(s) who are not the family members of the petitioners and even otherwise, the petitioner has no concern at all with the said establishment. It is submitted that the rent for the said tenanted premises under the tenancy of the said M/s.MidAir Express (P) Ltd. is at present Rs.300/- per month, which was earlier Rs.85/- per month. The said premises is still under the tenancy of the said company and the petitioner has no concern with the said premises except being the owner thereof. It is pertinent to mention here that M/s.MidAir Express (P) Ltd., is in litigation with the previous tenant in respect of the said premises pending before Ms.Sujata Kohli, ADJ, Delhi wherein the claim of the previous tenant is that he had never surrendered the tenancy rights qua the said premises to the previous owner. It is further wrong to allege that the first floor and second floor are the residence of the petitioner or that the petitioner has falsely stated that he is running the office from the first floor. It is not disputed that the son and two daughters prior to the marriage were also residing in the same premises alongwith the petitioner but even during the period all the family members were residing together, the circumstances of the petitioner were such that he could arrange or extend his. residential accommodation and had to adjust



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the entire family in the small space available with him apart from having business establishment in a portion of the first floor. It is also wrong to allege that the petitioner is in occupation of two rooms and a big drawing dining which he has shown as office lobby and a room for temple and two toilet and a kitchen on the first floor and one room, covered verandah, toilet and open terrace with balcony on the second. floor as alleged. It is further wrong to allege that the petitioner is having sufficient accommodation available with him for residence as well as for business. It is submitted that the petitioner has one room measuring 200 sq.ft. approx. which is being used as a bed room cum sitting room measuring 200 sq.ft. and another room (approx.) having a wooden partition and one part is being used as a temple/Pooja Ghar which is approx. 50 sq.ft., in the area and other portion as a small bed room. Apart from the above, the third room is being used by the petitioner for his office from where he is running his travel agency. The petitioner does not have any big drawing dining as alleged. The petitioner is also having a room on the barsati floor with bath room which is being occupied by the domestic servant of the petitioner. The petitioner has shown the entire extent of accommodation available with him in the site plan annexed with the petition.

17. Para No.17 is wrong and denied as stated. It is wrong to allege that the petitioner is not entitled to maintain the eviction It is submitted that petition as alleged. the complete details with regard to the alleged properties as alleged in para under reply have been given in detail and the submissions made in the foregoing paras may be read as part of reply to this para also. It is submitted that the requirement of the petitioner qua the premises in question is real, genuine, bonafide and has been made on the basis of the factual position as detailed in the eviction petition and furthermore, the respondent has not raised any issue which can be termed to be a triable issue.”

9.3. Learned counsel for the petitioners has further drawn the attention of this Court towards the fact that GPA dated 16.10.2012 executed by Easy (Ezee) Travel Solutions through its partners Narayan Shangnani (respondent/landlord) and Chanda Shangnani, in favour of Ms. Madhu Suneja (daughter of respondent) for management of business as the



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executants/landlord (respondent) regularly travel out of India, and hence, there is need for his daughter to handle his business and deal with bank accounts pertaining the aforesaid partnership firm. Attention of this Court has further been towards a notice dated 05.07.2014 issued by HDFC Bank Branch, Gole Market confirming that Madhu Suneja (respondent's daughter) is mandate holder of an account in the name of M/s. Madhur Air Travels, 5 Bhagat Singh Marg, Gole Market, New Delhi. It is further noted that, in the said notice it has been mentioned, the respondent- Narayana Shamnani is sole proprietor of the said firm and the said account was opened on 16.11.2012, i.e., prior to the institution of the subject eviction proceedings. It is thus contended that the stand of the respondent/landlord that he has no concern with the business run by his daughter is false. It is pointed out that the aforesaid documents were filed before learned ARC; however, the same were not taken into consideration. By placing reliance on the GPA executed by the respondent, learned counsel for the petitioners has contended that the respondent is already running his business from 5, Bhagat Singh Marg, Gole Market, New Delhi. It is further submitted that the respondent has now settled in Toronto, Canada, and the petitioners have placed on record images from the facebook page of the aforesaid entity, Easy (Ezee) Travel Solutions, to demonstrate that the respondent has in fact shifted to Canada. It is further the case of the petitioners that the aforesaid notice as well as GPA documents have not been dealt/considered by the learned RC in impugned order dated 02.07.2015 in paragraphs nos. 21, 21.1, 21.3 and 22 while dealing with the plea raised by the petitioners regarding alternate accommodation with the respondent for satisfying the alleged *bonafide* requirement.



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9.4. Attention of this Court has also been drawn to rent receipt issued by the respondent to the tenant- Mid Air Express Pvt. Ltd. in respect of demises premises, i.e., 5, Bhagat Singh Marg, New Delhi, relied upon by the petitioners in their leave to defend applications and it is submitted that the said property has been shown by the respondent in the site plan annexed along with the brief synopsis filed before this Court (green colour) to be available with the respondent. It is further pointed out that the fact that the premises-5, Bhagat Singh Marg, Gole Market, New Delhi, is under tenancy of Karachi Halwa House has not been pleaded by the respondent in the subject eviction petitions filed at the first instance.

Submissions on Behalf of the Respondent

10. Learned Senior Counsel for the respondent has made the following submissions: -

10.1. The petitioners have failed to show any jurisdictional error or an error law in the impugned order which has been passed after taking into consideration the facts of the present case and the contentions raised on behalf of the parties. It is the case of the respondent that demised premises are required *bonafidely* for extension of his business and the portions of the property under the tenancy of the respondent have been shown in red colour of the site plan of the subject property annexed with the brief synopsis (It is noted that said site plan is not original one filed along with eviction petitions).

10.2. It is further the case of the respondent that the *bonafide* requirement projected is for development and expansion of business for the entire family.



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The family members of the respondent were keen to join the alleged business related to travel, foreign exchange, international and domestic ticket section.

10.3. Attention of this Court has been drawn towards the site plan of the subject property placed on record by the petitioner along with the reply to the application, **CM APPL. 8455/2019 in RC REV. 507/2015**, and it is contended that said site plan is incorrect, and in the subject eviction petitions, the portion shown in green colour were available with the respondent for running his business and for the portions shown in yellow colour eviction petitions were filed by him.

10.4. It is submitted that the respondent, in response to application seeking leave to defend, had denied that he is engaged tour and travel business even prior to the purchase of the subject property. It is the case of the respondent that Shop no. 5 Bhagat Singh Marg, Gole Market, New Delhi, is a part of entire property owned by the respondent and in the said shop one tenant-M/s Karachi Halwa is in occupation and the said entity was inducted as a tenant by erstwhile owner of the property. It is further the case of the respondent that Shop No. 5, Bhagat Singh Market, Gole Market, is not owned by him and is owned by someone else, i.e., Karachi Hair Dresser. It is further submitted that the respondent owns the entire property being 1, 3 and 5 Bhagat Singh Marg and Shop No.5 is the part of the subject property and in under the tenancy of Karachi Halwa situated on the ground floor. It is further pointed out that the respondent had denied that he has the possession of another big shop being Shop No.1/4 Bhagat Singh Market which he had got vacated from tenant-M/s Shambhu Dayal Banwarilal; however, said shop is in possession



of M/s MidAir Express (P) Ltd., and said shop is under litigation with earlier tenant- M/s Shambhu Dayal Banwarilal, who were under tenancy of the erstwhile owner of the subject property, and the respondent has no concern with the said entity. It was also denied that the respondent has three shops to run his business in the same building and addresses of said shops are shown in the bank accounts in name of different organisations as has been alleged by the petitioners. It is the case of the respondent that Shop no. 1/4 Bhagat Singh Marg and not Bhagat Singh Market (as alleged by the petitioners) is under the possession of M/s Midair Express (P) Ltd. from where the said company is running its business. It is further pointed out that the respondent, in response/reply, had further denied that he is in possession of other properties and had concealed them from the Court. The status of the said shops, as mentioned in para 17 of the application seeking leave to defend filed by the **Petitioner-M/s. Gainda Lal Ram Narayan in RC.REV.507/2015**, had been appropriately explained by the respondent in response to the said application and complete details regarding the alleged properties were also disclosed by the respondent.

10.5. It is further the case of the respondent that he does not own any shop no. 9 and 10, Shaheed Bhagat Singh Lane, New Delhi. It is submitted that premises no. 9 and 10 Bhagat Singh Lane are in fact two garages being purchased and owned by his son-Deepak Shamnani and the said shops/garages had been let out by his son to Rajni Sethi Beautician. The said garages used as shops were let out in the month of April 2013, and the respondent has no concern with the said shops. It is further submitted that the respondent had provided the complete details with respect to the alleged



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properties claimed to have been in his possession and available with him as per the petitioners, and based on the factual position as contended and noted hereinbefore, the petitioners were not able to raise any triable issue(s) for grant of leave to defend in the subject eviction proceedings and learned ARC/RC had rightly rejected their applications seeking leave to defend and the impugned orders do not require any interference.

10.6. With respect to the subsequent events, it is submitted that shop no. 44, Gole Market, is not in possession of the respondent as it was transferred in the year 2000, and there is likelihood that substitution of the name of the new owner of the premises/shop has not been done. Learned Senior Counsel, as per reply filed in terms of paragraph 16 of the order dated 17.02.2025, has relied upon a public notice issued by the NDMC to contend that Shop no. 44 has now been auctioned by NDMC. Along with the reply, learned Senior Counsel has placed on record an e-communication dated 29.05.2019 regarding e-auction of licensing rights of 52 small shops/stalls/office space in NDMC area wherein at 'Serial No.43', shop no. 44 Gole Market has been shown as 'licensable'. Therefore, it is contended that the said shop is not in possession of respondent and he no longer has any licensing rights over the said shop. Regarding the letter/application for renewal of the license of the said shop in Gole Market by the respondent relied upon by the petitioner, it is submitted that the respondent had in his capacity of being President of Gole Market Merchants Association (Regd.) had been sending said representations to the Chairman of NDMC raising grievance regarding the pendency of the requests of the shop owners of the Gole Market for renewal of license of shops in Gole Market Area. The letters relied upon by the petitioners in



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application seeking to place on record subsequent events were in response to the representation made by the respondent to the NDMC as President of Gole Market Merchants Association (Regd.).

10.7. With respect to shop No.5, Bhagat Singh Marg, Gole Market, it is submitted that the same is not in possession of the respondent/landlord for last several years as said shop is in occupation of one tenant namely, M/s Karachi Halwa House, who was inducted as a tenant by the erstwhile owner, and a suit for recovery of possession of the said shop has been instituted by the respondent against the said tenant, which is pending before learned Trial Court/District Judge Patiala House Courts, New Delhi. It is further pointed out that plaint as well as relevant ordersheets of the said suit has been placed on record alongwith the reply filed by the respondent to the applications filed by the petitioners for placing on record subsequent events transpired during the pendency of the present petitions.

10.8. Learned Senior Counsel for the respondent has further submitted that the *bonafide* need in respect of demised premises is not of married daughters of the respondent but of him and his family members, including his wife, son and his daughters to expand the business which is already set-up by the respondent/landlord. Learned Senior Counsel for the Respondent/landlord also seeks to rely upon the judgment passed by this Court in **Swaranjit Singh and Anr. v. Saroj Kapoor; 2023¹²**, and by a Coordinate Bench of this Court in **Charanjeet Singh v. Vivek Jain¹³**, to submit that the Courts have held that

¹² SCC OnLine Del 7396

¹³ 2024 SCC OnLine Del 613



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the married daughter(s) is a member of the “family” within the meaning of DRCA, and there is no universal rule that a married daughter cannot be dependent upon her parents, and therefore, a petition seeking eviction on the ground of *bonafide* requirement of the demised premises for such daughter will be maintainable.

10.9. Reliance has been placed by learned Senior Counsel for the respondent on a judgment of Supreme Court in **Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta**¹⁴, (particularly para 11) to contend that scope of revisional jurisdiction of High Court under Section 25-B (8) cannot be as wide as that of the appellate court. It is further contended that High Court cannot appreciate or reappreciate evidence merely because it takes a different view. It is further contended that High Court to test the order of the Rent Controller on the touchstone of whether it is according to law.

10.10. Reliance has also been by learned Senior Counsel for the respondent on a judgment of the Supreme Court in **Ram Narain Arora v. Asha Rani and Others**¹⁵, to contend that non-disclosure by landlord about his having another accommodation would not fatal to the eviction petition if both the parties understood the case and placed material before the Court and the case of neither party was prejudiced.

10.11. Learned Senior Counsel for the respondent has relied upon the following judgments in support of the latter’s case: -

¹⁴ (1999) 6 SCC 222

¹⁵ (1999) 1 SCC 141



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- i. **Sait Nagjee Purshottam & Co. Ltd. v. Vimalbhai Prabhulal,** ¹⁶
- ii. **Pratap Rai Tanwani and Another v. Uttam Chand and Another,** ¹⁷
- iii. **Dharam Pal Gupta & Ors. V. Anand Prakash,** ¹⁸
- iv. **Savitri Seth & Ors. v. Parshottam Dass,** ¹⁹
- v. **Khem Chand Ramesh Kumar Radhey Shyam Goel, Pradeep Transport Company v. Vijay Mehra & Ors.** ²⁰
- vi. **Smt. Saroj Khemka v. Smt. Indu Sharma & Another,** ²¹
- vii. **Naresh Kumar v. Surender Gulati,** ²²
- viii. **Agya Ram Arora v. Surjeet Machine Tools,** ²³
- ix. **Sarika Jain v. Saran Singh Chhabra,** ²⁴
- x. **Gulshan Rai v. Samrendra Bose Secy.,** ²⁵
- xi. **Surinder Singh v. Jasbir Singh,** ²⁶
- xii. **Joginder Pal v. Naval Kishore Behal,** ²⁷
- xiii. **Sarla Ahuja v. United India Insurance Co. Ltd.,** ²⁸
- xiv. **Viran Wali v. Kuldeep Rai Kochhar,** ²⁹
- xv. **Smt. Shanti Sharma v. Smt. Ved Prabha,** ³⁰

¹⁶ (2005) 8 SCC 252

¹⁷ (2004) 8 SCC 490

¹⁸ 155 (2008) DLT 681

¹⁹ 215 (2014) DLT 429

²⁰ 216 (2015) DLT 544

²¹ 86 (2000) DLT 801

²² 236 (2017) DLT 265

²³ 220 (2015) DLT 245

²⁴ 2008 (2014) DLT 157

²⁵ 2012 (4) ILR (Delhi) 513

²⁶ 172 (2010) DLT 611

²⁷ (2002) 5 SCC 397

²⁸ (1998) 8 SCC 119

²⁹ 174 (2010) DLT 328

³⁰ AIR 1987 SC 2028



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xvi. **Gaya Prasad v. Pradeep Srivastava**,³¹

xvii. **Dharampal Gupta v. Anand Prakash**,³²

xviii. **Abid-Ul-Islam v. Inder Sain Dur**,³³

11. *In rejoinder*, learned counsels for the petitioners have placed reliance upon the site plan of the entire subject property filed by them alongwith applications seeking leave to defend and in the said site plan yellow portion of the property is shown under the tenancy of separate tenants and for eviction of said tenants separate eviction proceedings were initiated by the respondent and it is pointed out that, in the said site plan, shop No. 5 alleged to be in the possession of Karachi Halwa House has not been shown and was never even pleaded to be in the possession of the said entity by the respondent in the eviction petitions filed at the first instance.

Analysis and Findings

12. At the very outset, it is pertinent to note that *vide* order dated 07.12.2023, learned Predecessor Bench had allowed the applications, **CM APPL. 45244/2023 in RC. REV. 563/2015**, and **CM APPL. 45245/2023 in RC. REV. 99/2016**, filed by the petitioners-M/s Beli Ram Chemist & Ors. & Yogesh Jain. The same was, however, without prejudice to the rights and contentions of the respondent/landlord.

³¹ (2001) 2 SCC 604

³² 155 (2008) DLT 681

³³ (2022) 6 SCC 30



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13. Perusal of both the aforesaid applications demonstrate that similar averments have been made in both these applications. For the purposes of dealing with the said alleged subsequent events, the averments made in application, **CM APPL. 45244/2023 in RC. REV. 563/2015**, read as under: -

“2. That the Petitioners beg to submit that the Respondent/Landlord has suppressed knowingly and intentionally certain material facts which have only now come to the knowledge of the Petitioners and which would clearly show that the alleged need of the Respondent/Landlord set up in the eviction petition is in fact, sham and bogus and in any case, cease to exist as on date.

3. That the Petitioners have now come to know that the Respondent/Landlord has the following shops available to him, all on the ground Floor of the same locality, which are lying vacant and which are more than enough to meet the alleged requirements of the Respondent.

S.No	ADDRESS	Name of tenant	Date of vacation	Area
1.	Shop No. 5A, Bhagat Singh Marg, Gole Market, New Delhi	Shri Lab Singh	Nov-Dec 2014	231 sq. ft
2.	Shop No. 3/1, Bhagat Singh Marg, Gole Market, New Delhi	Ms. Mohini Raswant & Mr. Rahul Raswant	Dec. 2015	104 sq. ft
3.	Shop No. 1/5A Bhagat Singh Marg, Gole Market, New Delhi	Shri Jagdish Batra	June 2016	52.50 sq. ft
4.	Shop No. 1/5, Bhagat Singh Marg, Gole Market, New	Ms. Channi Devi	May 2022	55 sq. ft



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	Delhi			
5.	Shop No. 1/3, Bhagat Singh Marg, Gole Market, New Delhi	Shri Nirmal Kumar	June 2023	205 sq. ft
	TOTAL AREA			647.50 Sq.ft³⁴

4. That the alleged need of the Respondent/Landlord as set out in the eviction petition is sham and bogus would be evident from the fact that the Landlord has not utilized or put to use any of the aforesaid shops till date for the alleged purpose set out in the eviction petition and that too, despite the fact that these aforesaid shops which are owned by him, are all on the ground floor, are in the same locality and have been lying vacant and unutilized.

5. That it has also come to the knowledge of the Petitioners only recently that the Respondent/Landlord has available with him now Shop No. 1/6, Bhagat Singh Marg, Gole Market, New Delhi which admeasures approximately 300 sq. ft and which had been earlier leased out by the Respondent/Landlord to one M/s Explore India Travel Organiser vide Lease Agreement dated 31.3.2004 filed on record by the Respondent/Landlord himself [pg. 217 of the paperbook]. The Petitioners have also recently come to know that the vacant possession of the said shop was handed back to the Respondent/Landlord by the lessee i.e. M/s Explore India sometime in the year 2022 and since then the said premises is lying vacant and the Respondent/Landlord has not put the same to any alleged use, thus, once again clearly signifying that the alleged need of the Respondent/Landlord is a mere eyewash and is bogus. Reference and reliance is placed on the terms of the Lease Agreement dated 31.3.2004 (already on record), the photograph of Shop No. 1/6 Bhagat Singh Marg [attached as Annexure A] and the printout of the Google Search Page of M/s Explore India taken on 28.8.2023 which is attached as Annexure B.

³⁴ Column mentioning 'Date of Vacation' has been taken from CM APPL. 45245/2023 in RC. REV. 99/2016 as averments in both the said applications are based on same facts.

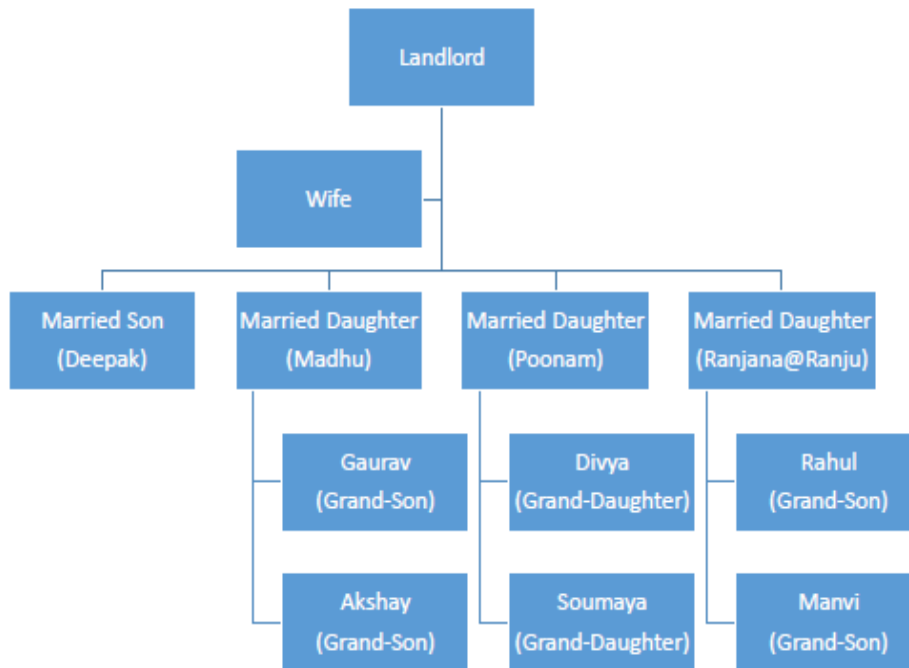


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6. That in the eviction Petition, the Respondent/Landlord has averred about his family/family members dependent upon him which is reflected in the chart below:



7. That Respondent/Landlord's case before the Learned Rent Controller was that neither he nor any of his aforementioned dependent family members have any other reasonable accommodation available with them to do the alleged business of travel agency [Kindly see Para 18(a)(v) of Eviction Petition]. And more specifically in relation to his married daughter Ranjana Aggarwal and her son Rahul Aggarwal, the following was asserted:

(i) Ranjana Aggarwal and her son Rahul Aggarwal are dependent upon the Landlord and they have no other reasonable accommodation available with them to do the business of travel agency [Para 18(a)(iv)(v) of Eviction Petition].

(ii) Ranjana Aggarwal has one son namely Rahul Aggarwal, aged 24 years [Para 18(a)(iv) of Eviction Petition].

(iii) Grand-son Rahul Aggarwal intends to join the Respondent/Landlord in his business [Kindly see Para 18(a)(iv) of Eviction Petition].



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(iv) Daughter Ranju Aggarwal [emphasis] resides in Ashok Vihar in her matrimonial home. Her husband Sh. Raj Kumar is also engaged in travel business and sometime in September 2012 started a travel agency under the name and style of M/s Yorks Travel and Forex Services Pvt. Ltd. The grand-son Rahul Aggarwal is also shown as additional director in the said company but he is unable to adjust there and hence he intends to join the business of the Respondent.

8. That it has now been revealed to the Petitioners that the aforesaid daughter of Landlord namely Ranjana Aggarwal@Ranju Aggarwal owns and is in possession of following two commercial shops situated at Ashok Vihar, Delhi:

(i) Shop No. LG-3, 27 Central Market, Ashok Vihar, Delhi-110052 admeasuring 205 sq. ft. [Kindly see Agreement to Sell dated 29.1.2010 enclosed as Annexure C]

(ii) Shop No. BF-4, Central Market, Ashok Vihar, Delhi-110052 admeasuring 147 sq. ft. [Kindly see Agreement to Sell dated 3.10.2011 enclosed as Annexure D]

Both the aforesaid shops are lying vacant as on date, are in possession of Ranjana Aggarwal@Ranju Aggarwal and are more than suitable to meet the alleged requirement of the Respondent/Landlord. The ownership and availability of these two aforesaid shops was deliberately concealed at the time of instituting the eviction petition and even at the subsequent stages of this case.

9. That while it was/is claimed by the Respondent/Landlord that his grand-son namely Rahul Aggarwal [son of aforesaid daughter Ranjana@Ranju Aggarwal] is based in Delhi, that he is an additional director in M/s Yorks Travels and Forex and is intending to join the Respondent/Landlord in his business, the screenshot of his Facebook Profile [Annexure E] which has come to the notice of the Petitioners only now, clearly shows that he is permanently settled in Ontario, Canada since 2018.

10. That it has also recently come to the knowledge of the Petitioners that the Respondent/Landlord owns and manages his Facebook Page under the name “Ezee Flight” [Annexure F]. A perusal of the same would reveal that the Respondent is no more a resident of New Delhi,



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India but is rather living in Toronto, Canada. The need thus, set up in the Eviction Petition both for himself or for his alleged dependents thus, cease to exist as on date.

11. That the facts submitted above came to the knowledge of the Petitioners only on or about the first week of August 2023 and that is why the same could not be pleaded earlier. It is further submitted that the Respondent/Landlord was required to clearly spell out all these facts which he did not intentionally and fraudulently reveal with a view to mislead the court and to defeat the ends of justice.”

(emphasis supplied)

14. In response to the aforesaid subsequent events, respondent has placed on record written submissions wherein, it has been contended that the alleged application filed by the petitioners is false and baseless. It is stated that the present status of the suit property, shop No.5A (also known as shop No.5/1) vacated by Labh Singh in the year 2015 is being used by Ezee Flight and Ezee Travel Solution, and shop No.3/1 vacated by Mrs. Mohini Raswant is used by Madhur Air Travel, and shop No.1/5A vacated by Jagdish Batra in the year 2016 is being used as a washroom, and shop No.1/5 vacated by Channi in the year 2022 is being used as server room, and shop No.1/3 vacated by Nirmal Kumar in the year 2023 is being used for keeping of records. It is further stated that rights and obligations of the parties are to be determined on the date of the petition and subsequent events can be taken into consideration for moulding relief, provided such events are of such a nature and dimension so as to completely eclipse the need and make it loose significance altogether which is not a case in hand, and the Court has to look into the cause of action based on which the eviction petition was instituted.



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15. Perusal of the aforesaid averments made in application, **CM APPL.45244/2023**, shows that the respondent has six shops available with him, all on ground floor of the same locality, and same were lying vacant which are more than enough to meet his alleged *bonafide* requirement. In response to the said averments, the respondent has explained the status of the aforesaid five shops situated in Bhagat Singh Marg, Gole Market, New Delhi. However, regarding the shop No.1/6, Bhagat Singh Marg, Gole Market, New Delhi, no explanation has been extended on behalf of the respondent. The vacation of the aforesaid shops and the respondent getting possession of the same as contended on behalf of the petitioners during the pendency of the instant petitions is a subsequent event which has materially changed the ground of relief.

16. It was the case of the respondent/landlord that his grandson-Rahul Aggarwal, who is director in M/s Yorks Travels and Forex, intended to join his business. However, petitioners have placed on record screenshot of his Facebook Profile to demonstrate that said grandson is permanently settled in Ontario, Canada, since 2018. Further, the petitioners have also contended that the respondent/landlord during the pendency of the instant petitions has also shifted to Toronto, Canada, and is no more residing in India, and therefore, the *bonafide* requirement set up by him has ceased to exist on this date. Reliance has been placed on a screenshot of the *Facebook* page/profile of the respondent in support of this contention which shows that the respondent currently lives in Toronto, Ontario (Canada). It is further their case that such facts had come to their knowledge in 2023, and owing to this reason, same could not be pleaded earlier. On the other hand, the respondent has contended



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that he is running his business as well as residing in the demised premises with his family in New Delhi. It is further contended on behalf of the respondent that the description given on the 'Facebook' page/profile of the latter was only to garner clientele/business from Canada. However, the aforesaid screenshot taken from the 'Facebook' page/profile has not been denied by the respondent/landlord. At this stage, it is pertinent to note that in paragraph 18 (a)(iii) of the all-eviction petitions following averments were made on behalf of the respondent/landlord: -

"18 (a)

(iii) That the petitioner has been doing the business as Travel Agents since the year 1979 and after purchasing the property the petitioner shifted his business in the property in question and at present doing the business from the portion of first floor of the property. **On the first floor of the property the petitioner is running the business in the name of Two Proprietorship concerns namely Madhur Air Travels and Ezee Flight and running one partnership firm under the name and style of M/s Ezee Travel Solutions. The petitioner is proprietor of Madhur Air Travels and Ezee Flight and in the partnership firm the petitioner and his wife Smt. Chanda Shamnani are the partners. The elder daughter of the petitioner namely Madhu Suneja is also helping the petitioner in the business. It is submitted that the petitioner in the circumstances, is managing all his business affairs from the premises on the first floor, where he along with his family are residing on the portion of first floor i.e. the petitioner is doing his business from one of the rooms on the first floor. On the barsati floor the servant of the petitioner is residing."**

(emphasis supplied)

The averments made in the eviction petition shows that the need of the respondent was for expanding for his travel agency business which he was



already doing along with his wife, and his daughters and son were also assisting him in the said business. However, aforementioned subsequent events placed on record by the petitioners has materially changed the ground of relief.

17. Further, by way of applications, **CM APPL. 68805/2024 in RC. REV. 563/2015 and CM APPL. 68804/2024 in RC. REV. 99/2016**, the petitioners-tenants sought to place on record documents in relation of subsequent event pertaining to the respondent/landlord, wherein he had applied for removal of his license of shop No. 44, Gole Market, New Delhi. It was stated in these applications, that this shop is available to the respondent as an additional alternate accommodation and the application for renewal of license filed on behalf of the respondent shows that the said shop is in use and occupation of the respondent/landlord. It was further stated that on 21.11.2024, the petitioners came to know about a letter dated 17.09.2024 which is a communication addressed by NDMC, New Delhi Municipal Corporation to the respondent/landlord regarding renewal of license of the NDMC Shop No.44 of Gole Market Area, New Delhi. It is the case of the petitioners that by way of this letter, the respondent admittedly owns yet another shop at Gole Market and details of the said shop were deliberately withheld and not disclosed in the subject eviction petition filed against the petitioners. It is further stated that in case the stand of the respondent that they had surrendered their rights with respect to the said shop No.44 in year 2000 in favour of a third party is taken to be on its face value then also the letter dated 17.09.2024 clearly demonstrates that the said shop was all along under the occupation and in possession of the respondent and same was not



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disclosed by him in the eviction petition. Despite being the said shop available to the respondent, he had set up a false version in the eviction petition to get the petitioners/tenant evicted.

18. The stand taken by the respondent in respect of the aforesaid shop No.44, Gole Market, New Delhi, is that the license rights of the said shop were transferred in the year 2000, and it is likely that the substitution of the name of new owner/licensee of the said shop has not been done. It is further his case that the persons who were carrying on business at the said shop have surrendered the same to NDMC and NDMC *vide* public notice dated 29.05.2019 had put for auction the licensing rights of various shops including said shop No.44. These facts were not placed by the respondent/landlord in the eviction petitions. The aforesaid stand of the respondent that said shop No.44 being transferred in the year 2000 becomes a triable issue.

19. The Hon'ble Supreme Court in **Maria Martins v. Noel Zuzarte & Ors.**³⁵, with respect to subsequent events which materially changes the ground of relief, has observed and held as under: -

“7. Suffice it to observe that it was the specific case of the plaintiffs that they had bonafide need of Room No. 59 occupied by the defendants as the same was required by the family for their own use and occupation. By leading evidence before the Trial Court, the plaintiffs were successful in securing the decree for eviction. The Appellate Court reversed the said decree principally on the ground that the suit premises was primarily required for the widow of Mr. Martins, who was alive when the suit was filed but had subsequently expired. This adjudication was the subject matter of challenge at the instance of plaintiffs before the High Court.

³⁵ 2026 SCC OnLine SC 600



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The defendants sought to support the reversal of the decree for eviction by stating in their affidavit dated 12th April 2023 that Room No. 63 that was in occupation of the plaintiffs had been let out to some other persons. This factor was required to be taken into consideration along with all other evidence that was available on record while considering the challenge to the decree of the Appellate Court. The affidavit by itself could not have been the sole basis for coming to a conclusion that the plaintiffs did not bonafide need the suit premises, without examining the material on record. **In this regard, we may refer to the decision in Atma S. Berar v. Mukhtiar Singh³⁶ wherein it was held as under:**

“The power of the Court to take note of subsequent events is well-settled and undoubted. However, it is accompanied by three riders : firstly, the subsequent event should be brought promptly to the notice of the Court; secondly, it should be brought to the notice of the Court consistently with rules of procedure enabling Court to take note of such events and affording the opposite party an opportunity of meeting or explaining such events; and thirdly, the subsequent event must have a material bearing on right to relief of any party.”

8. In this context, we are also guided by the principle laid down by this Court in Maganlal son of Kishanlal Godha v. Nanasahab son of Udhaorao Gadewar³⁷. While dealing with a landlord-tenant dispute, it was held that the adjudication of bonafide need should be done as on the date when the suit for eviction was filed, unless some subsequent event materially changes the ground of relief. It was further held that subsequent events may be considered to have overshadowed the genuineness of the landlord's requirement only if they are of such nature and dimension as to make it lose its significance altogether. This Court observed as under:

“17. In Pratap Rai Tanwani v. Uttam Chand [(2004) 8 SCC 490], it was held that the bona fide requirement of the landlord has to be seen on the date of the petition and the subsequent events intervening due to protracted litigation will not be relevant. It was held that the crucial date is the date of petition; therefore, the normal rule is that the rights and obligations of the parties are to be determined on the date of petition and that

³⁶ 2002 INSC 533

³⁷ CA No.6125/2008 decided on 16.10.2008



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subsequent events can be taken into consideration for moulding the reliefs, provided such events had a material impact on those rights and obligations. It was further observed that it is stark reality that the longer is the life of the litigation the more would be the number of developments sprouting up during the long interregnum. Therefore, the courts have to take a very pragmatic approach of the matter. It is common experience in our country that especially landlord-tenant litigations prolong for a long time. It is true that neither can the person who has started the litigation sit idle nor can the development of the event be stopped by him. Therefore, the crucial event should be taken as on the date when the suit for eviction was filed, unless the subsequent events materially change the ground of relief.

18. In the case of *Gaya Prasad v. Pradeep Srivastava* [(2001) 2 SCC 604], this Court held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the facts of the requirement of the landlord is the date of his application for eviction. It is also observed that the process of litigation cannot be made the basis for denying the landlord relief unless the litigation at least reaches the final stages. However, it is further added that subsequent events may, in some situations, be considered to have overshadowed the genuineness of the landlords' needs but only if they are of such nature and dimension as to completely eclipse such need and make it lose the significance altogether."

In the light of above discussion, the High Court failed to consider whether the subsequent event as urged by the defendants had material bearing on the right claimed by the plaintiffs. It has to be borne in mind that the Trial Court had passed a decree for eviction on the basis of the evidence on record which was reversed by the Appellate Court. It was, therefore, necessary for the High Court to have taken into consideration the entire material available on record including the affidavit dated 12th April 2023. Thus, by failing to do so, the High Court failed to exercise jurisdiction vested in it while deciding the challenge to the reversal of the decree for eviction. We, therefore, find that the order passed by the High Court deserves interference.

9. The contention of the appellant that the contents of the affidavit did not warrant acceptance is an aspect that requires consideration. Since we



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are inclined to remand the proceedings to the Trial Court for re-consideration of the matter in the light of subsequent events, we do not intend to delve at length on this aspect or as regards the material placed on record by either party, since any observations made could prejudice the Courts. In our view, the interests of justice would be served if the proceedings are re-considered by the Trial Court in the light of material brought on record and the subsequent events that have since occurred during pendency of the proceedings. To enable the parties to buttress their respective stands, they are granted liberty to amend their pleadings in accordance with law. The Trial Court would thereafter consider the entire material on record and decide the proceedings on their own merits, uninfluenced by any observations made either by the Trial Court or by the Appellate Court.”

(emphasis supplied)

20. The Hon’ble Supreme Court in **Kedar Nath Agrawal (dead) & Anr. v. Dhanraji Devi (dead) by lrs. And Anr.**³⁸, had observed and held as under:

-

“13. The question then remains as to effect of subsequent events. It is not in dispute between the parties that during the pendency of the writ petition before the High Court, both the applicants died and their three daughters were brought on record. It is also not in dispute that all the three daughters are married and they are at their marital homes with their in-laws. In view of the said fact an argument was advanced on behalf of the tenants before the High Court that the said circumstance was an eloquent one and must be taken into account which had occurred during the pendency of the proceedings which would affect the final outcome. According to the tenants, in view of death of both the applicants, the requirement as pleaded by the applicants in the application did not survive and the application was liable to be rejected. It was the power and the duty of the High Court to take into account subsequent events which emerged during the pendency of the writ petition and pass an appropriate order taking into consideration such development. In support of the said contention, reliance was placed by the learned counsel on several decisions of this Court.

14. Per contra, it was argued on behalf of the respondents that the

³⁸ (2004) 8 SCC 76



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legality and the validity of the decree or order passed by the prescribed authority has to be tested on the basis of rights of the parties as they stood at the time when the application was filed. Subsequent events could not take away accrued and vested right of the applicants.

15. The High Court held that the objection raised by the heirs of the applicants was well founded and the Court could not take into account the subsequent event of death of the applicants during the pendency of writ petition. It was also observed that a party could not be penalised for the delay in court and when the order of eviction was legally passed in favour of the applicants, it could not be set aside by considering the subsequent event of death of the applicants. The High Court also observed that the decisions cited on behalf of the writ petitioners wherein subsequent events were taken into account were in appeals. According to the High Court, an appeal can be said to be a “continuation of suit” but not a writ petition. It was observed that once the case was decided by the prescribed authority and appeal was dismissed by the District Judge, the High Court had no power to consider subsequent events in the proceedings under Articles 226/227 of the Constitution and accordingly it dismissed the writ petition.

16. In our opinion, by not taking into account the subsequent event, the High Court has committed an error of law and also an error of jurisdiction. In our judgment, the law is well settled on the point, and it is this : the basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit or proceeding and the suit/action should be tried at all stages on the cause of action as it existed at the commencement of the suit/action. This, however, does not mean that events happening after institution of a suit/proceeding, cannot be considered at all. It is the *power* and *duty* of the court to consider changed circumstances. A court of law may take into account subsequent events *inter alia* in the following circumstances:

- (i) the relief claimed originally has by reason of subsequent change of circumstances become inappropriate; or
- (ii) it is necessary to take notice of subsequent events in order to shorten litigation; or
- (iii) it is necessary to do so in order to do complete justice between the parties.



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(Re *Shikharchand Jain v. Digamber Jain Praband Karini Sabha* [(1974) 1 SCC 675 : (1974) 3 SCR 101], SCC p. 681, para 10.)

18. Before about a century in *Ram Ratan Sahu v. Bishun Chand* [(1907) 6 Cal LJ 74 : 11 CWN 732] the High Court of Calcutta observed that there are certain exceptions to the general rule that a suit must be tried in all stages on the cause of action as it existed at the date of its commencement. In *Lachmeshwar Prasad Shukul v. Keshwar Lal Chaudhuri* [1940 FCR 84 : AIR 1941 FC 5] the Federal Court took into account the provisions of the new Act which came into force during the pendency of appeal before the Federal Court.

19. In the leading decision of *Pasupuleti Venkateswarlu v. Motor & General Traders* [(1975) 1 SCC 770 : AIR 1975 SC 1409 : (1975) 3 SCR 958 [Ed. : See however (1998) 2 SCC 710, a later decision by a three-Judge Bench.]] this Court considered a subsequent event. The plaintiff filed a suit for possession on the ground of personal requirement for starting business and an order was passed in his favour. An appeal against the said order was also dismissed. The tenant filed a revision petition in the High Court. During the pendency of revision petition, the plaintiff acquired possession of another non-residential building. An application for amendment, therefore, was made by the tenant. The High Court allowed the amendment. The landlord challenged the order in this Court. It was contended by the landlord that the High Court had committed an error in taking cognizance of subsequent event which was “disastrous”. This Court, however, held that the High Court did not commit any illegality in considering the subsequent event.

20. Following *Lachmeshwar Prasad* [1940 FCR 84 : AIR 1941 FC 5] law of “ancient vintage”, Krishna Iyer, J. stated : (SCC pp. 772-73, para 4)

“4. We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-à-vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally



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clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the *lis* has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fair play is not violated, with a view to promote substantial justice — subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. *We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed.*”

(emphasis supplied)

21. *Pasupuleti Venkateswarlu* [(1975) 1 SCC 770 : AIR 1975 SC 1409 : (1975) 3 SCR 958 [Ed. : See however (1998) 2 SCC 710, a later decision by a three-Judge Bench.]] was followed in many cases. In *Gulabbai v. Nalin Narsi Vohra* [(1991) 3 SCC 483 : AIR 1991 SC 1760] an order of eviction was passed against the tenant on the ground of bona fide need of the landlord. Subsequent event of shifting family of the landlord to a spacious bungalow constructed by him during the pendency of appeal, was considered by this Court.

22. In *Ramesh Kumar v. Kesho Ram* [1992 Supp (2) SCC 623 : AIR 1992 SC 700] this Court observed that a court can mould relief taking “cautious cognizance” of subsequent events. The Court also observed that all these depend on factual and situational differences and “there can be no hard-and-fast rule governing the matter”.

23. In *Shadi Singh v. Rakha* [(1992) 3 SCC 55 : AIR 1994 SC 800] a landlord sued a tenant for ejection on the ground that the building required thorough repair. During the pendency of the suit, the tenant



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carried out necessary repair. Taking note of the event, this Court dismissed the suit of the landlord.

24. In *Super Forgings & Steels (Sales) (P) Ltd. v. Thyabally Rasuljee* [(1995) 1 SCC 410] dealing with power of this Court to take note of subsequent events in an appeal under Article 136 of the Constitution, this Court stated that : (SCC pp. 417-18, para 16)

“[T]he power of this Court in an appeal under Article 136 of the Constitution to take cautious cognizance of events and developments subsequent to institution of eviction proceeding and grant, deny or mould the relief sought by a party, in consonance with justice and fair play is not restricted merely because it is exercising its power to deal with an appeal conferred upon it by the Constitution.”

25. In *P. Sriramamurthy v. Vasantha Raman* [(1997) 9 SCC 654 : AIR 1997 SC 1388] an order of eviction was passed in favour of the landlord and against the tenant on the ground of non-payment of rent. During the pendency of appeal before this Court, husband of the landlady retired from service and they needed the premises for personal occupation also. Though the ground was not set up earlier, taking note of subsequent event, this Court allowed the ground to be raised and granted the relief.

26. In *Lekh Raj v. Muni Lal* [(2001) 2 SCC 762 : AIR 2001 SC 996] this Court indicated that the law on the subject is well settled. The court should not shut its door on noticing subsequent events. All laws and procedures including functioning of courts are all in aid to confer justice on those who knock its door. The court should interpret the law not in derogation of justice but in its aid. **Bringing on record subsequent event, which is relevant, should, therefore, be permitted to render justice to a party. But the court in doing so should be cautious not to permit it in a routine manner. It should refuse the prayer where a party is doing so to delay the proceedings and to harass the other party or doing so for any other ulterior motive. The court should also examine whether the alleged subsequent event has any material bearing on issues involved or would materially affect the result of the suit.**

27. In *Om Prakash Gupta v. Ranbir B. Goyal* [(2002) 2 SCC 256 : AIR 2002 SC 665] this Court stated : (SCC pp. 262-63, para 11)

“11. The ordinary rule of civil law is that the rights of the parties stand



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crystallised on the date of the institution of the suit and, therefore, the decree in a suit should accord with the rights of the parties as they stood at the commencement of the lis. However, the Court has power to take note of subsequent events and mould the relief accordingly subject to the following conditions being satisfied : (i) that the relief, as claimed originally has, by reason of subsequent events, become inappropriate or cannot be granted; (ii) that taking note of such subsequent event or changed circumstances would shorten litigation and enable complete justice being done to the parties; and (iii) that such subsequent event is brought to the notice of the court promptly and in accordance with the rules of procedural law so that the opposite party is not taken by surprise.”

28. Strong reliance was placed by the contesting respondents on a decision of this Court in *Rameshwar v. Jot Ram* [(1976) 1 SCC 194 : (1976) 1 SCR 847] before the High Court as well as before us. In *Rameshwar* [(1976) 1 SCC 194 : (1976) 1 SCR 847] the tenant had become “deemed purchaser” under the Punjab Security of Land Tenures Act, 1953. During the pendency of appeal, the “large” landowner died and his heirs became “small” landowners. It was, therefore, contended on behalf of the landowners in appeal that since appeal is continuation of suit, subsequent event of death of the original owner should be considered. This Court, however, refused to take note of subsequent event on equitable considerations. Keeping in view the agrarian reforms, this Court said : (SCC p. 201, para 10) “To hold that, if the landlord dies at some distant date after the title has vested in the tenant, the statutory process would be reversed if by such death, his many children, on division, will be converted into small landholders, is to upset the day of reckoning visualised by the Act and to make the vesting provision ‘a teasing illusion’, a formal Festschrift to agrarian reform, not a flaming programme of ‘now and here’. *These surrounding facts drive home the need not to allow futurism, in a dawdling litigative scene, to foul the quick legislative goals.*”

(emphasis supplied)

30. We must now refer to *Hasmat Rai* [(1981) 3 SCC 103 : AIR 1981 SC 1711 : (1981) 3 SCR 605] . As already noted, notice was issued by this Court on 29-10-1999 in view of the decision of this Court in *Hasmat Rai* [(1981) 3 SCC 103 : AIR 1981 SC 1711 : (1981) 3 SCR 605] . In the said decision, the three-Judge Bench of this Court



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held that when eviction was sought on the ground of personal requirement of the landlord, such requirement must continue to exist till the final determination of the case. Following the ratio laid down in *Pasupuleti Venkateswarlu* [(1975) 1 SCC 770 : AIR 1975 SC 1409 : (1975) 3 SCR 958 [Ed. : See however (1998) 2 SCC 710, a later decision by a three-Judge Bench.]] Desai, J. stated : (SCC pp. 113-14, para 14)

“[I]t is now incontrovertible that *where possession is sought for personal requirement it would be correct to say that the requirement pleaded by the landlord must not only exist on the date of the action but must subsist till the final decree or an order for eviction is made*. If in the meantime events have cropped up which would show that the landlord's requirement is wholly satisfied then in that case his action must fail and in such a situation it is incorrect to say that as decree or order for eviction is passed against the tenant he cannot invite the court to take into consideration subsequent events.”

(emphasis supplied)

21. The fact whether aforesaid properties, of which respondent has got possession, would be sufficient to satisfy the *bonafide* requirement of the respondent, or the same would constitute alternate suitable accommodation, or whether the *bonafide* requirement portrayed by the respondent has ceased to exist as on this day, in view of him being shifted and settled in Toronto, Canada, are triable issues, which needs to be contested at the stage of trial by leading adequate evidence.

22. Even otherwise, some of the issues raised by the petitioners in their leave to defend applications, have not been properly dealt with by the learned ARC. For instance, the issue of the respondent having possession of shop No. 5, Bhagat Singh Marg, Gole Market raised by the **petitioner-M/s Gainda Lal**



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Ram Narayan & Anr. in RC REV. 507/2015 has been dealt by the learned ARC in the following manner: -

“21 Now coming to the plea regarding alternate accommodation. The respondents in their affidavit have detailed out the other properties owned by petitioner. It is not in dispute and is in fact a matter of record that petitioner has filed simultaneous eight petitions seeking eviction against the tenants in respect of his bonafide requirement. As regards the shop no. 1/4, as discussed above the same is under the tenancy of M/s. Mid Air Express Pvt. Ltd. **As regards the shop no. 5, Bhagat Singh Marg is concerned, it is stated that the same is under the tenancy of Karachi Halwa. The said averment of petitioner has not been refuted by the respondents and the petitioner has also placed on record the photographs to support his averments.**”

(emphasis supplied)

22.1. The aforesaid finding by learned ARC is clearly incorrect on the face of record as in paragraph 10 of the leave to defend application filed by the aforesaid petitioner, the following stand was taken: -

“10. That so far as the Petitioner is concerned, he is running his business of travel agent prior to coming to the property in question and he himself thereafter started business in Shop No. 5. Bhagat Singh Marg, Gole Market, New Delhi and is also having another Shop No. 5 at Bhagat Singh Market, Gole Market, New Delhi. Thus he is already having two shops in his possession from where he is running the business.”

22.2. In response to the aforesaid stand, in the reply to the application seeking leave to defend following averment was made by the respondent/landlord: -

“10. Para No. 10 is not denied to the extent that the petitioner is engaged in tour and travel business even prior to coming to the



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owner. property in question. It is submitted that Shop No.5 Bhagat Singh Marg, Gole Market, New Delhi is a part of the entire property owned by the petitioner and in the said shop one tenant namely M/s. Karachi Halwa House is in occupation thereof, who was inducted as a tenant by the erstwhile. It is submitted that as far as shop No.5 Bhagat Singh Market, Gole Market, is concerned, the same is not owned by the petitioner and is owned by some one else and is occupied by Karachi Hair Dresser. **It is submitted that the petitioner owns the entire property measuring 370 sq.yds., which is numbered as 1, 3 & 5, Bhagat Singh Marg whereas shop No.5 is part of the property owned by the petitioner which is under the tenancy of Karachi Halwa House and is on the ground floor. It is not out of place to mention here for convenience sake, the correspondence address is given as 5-Bhagat Singh Marg, Gole Market, New Delhi, by the petitioner who is residing on the first floor.** Hence the respondent is falsely alleging that the petitioner has two shops in possession.”

(emphasis supplied)

22.3. In rejoinder to the aforesaid reply of the respondent, following averments were made by the petitioner-M/s Gaiinda Lal Ram Narayan: -

“10. That the contents of para 10 so far have been admitted,. needs no reply while the rest of the contents as stated are false, incorrect and denied and that of the corresponding para are reiterated. **It is denied that the Petitioner has given the correspondence address as 5, Bhagat Singh Marg, Gole Market, New Delhi and he is residing in the first floor.** It is submitted that this requires investigation that too by evidence not otherwise and it is sufficient ground to grant leave to defend to the respondent.”

(emphasis supplied)

22.4. It is pertinent to note that, even in the site plan filed by the respondent/landlord, the said shop No.5, Bhagat Singh Marg, Gole Market, New Delhi, was not shown in possession of the alleged tenant-



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M/s Karachi Halwa House nor was the same mentioned in the eviction petitions filed at the first instance.

22.5. The site plan filed along with the eviction petitions did not reflect that shop No.5, Bhagat Singh Marg, Gole Market, New Delhi, is in occupation of the tenant- M/s Karachi Halwa House, who is alleged to have been inducted by the erstwhile owner of the property. It is a matter of fact that the respondent had not initially disclosed that this shop No.5 is in occupation of the tenant- M/s Karachi Halwa House, and the same was only done in reply to the leave to defend application filed by the petitioner. It is pertinent to note that the respondent/landlord has not placed on record any rent receipt in respect of shop No.5 to show that said shop is in occupation of M/s Karachi Halwa House. Further, it is pointed out by learned counsel for the petitioner as also is reflected from the record of the instant petitions that the respondent in the memo of parties has mentioned his address as “5, Bhagat Singh Marg, Gole Market, New Delhi” in the eviction petitions. As these facts were not disclosed in the eviction petition as also in the site plan filed along with it, the same, therefore, itself become triable issues which require consideration.

22.6. Learned Senior Counsel for the respondent had submitted that a civil suit, **CS (COMM) 226/2021**, for possession has been instituted by the respondent against the said tenant, M/s Karachi Halwa House, and the same is pending adjudication before learned District Judge, Patiala House Courts, New Delhi. It is sufficient to note that said suit has been filed after passing of the impugned orders/judgment.



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23. Further, the factum of possession of the shops, as described in paragraph 8 (i) & (ii) of the application **CM APPL. 45244/2023 in RC. REV. 563/2015**, with the daughter of the respondent-Ranjana Aggarwal also overshadows the *bonafide* requirement portrayed by the respondent as said fact was not disclosed by the respondent at the time of the filing of the eviction petitions. At this stage, it is pertinent to note that, in paragraph 7 of the application seeking leave to defend filed by the petitioner-M/s Gainda Lal Ram Narayan, it was stated as under: -

“7. That without prejudice to the above, **It is submitted that so far as the Petitioner's daughter Smt. Ranjana Aggarwal is concerned she is running her independent business under the name & style of M/s. Yorks Travel & Forex Services Pvt. Limited having authorised capital of Rs.25,00,000/- and paid up capital of Rs.9,00,000/- having a registered office at Shop No. LG 3-4, Plot No. 27, Central Market, Ashok Vihar, phase-I, Delhi 110 052 which is owned by the family of Ms. Ranjana Aggarwal and she is residing at F-107, Ashok Vihar Phase-I, Delhi 110 052 and in the said firm Smt. Ranjana Aggarwal, her husband Shri Raj Kumar Aggarwal and her son Shri Rahul Aggarwal are the Directors and as such it is clear that the family of Smt. Ranjana Aggarwal is running a separate business and there is no question of her dependent upon the Petitioner for any purpose whatsoever and in these circumstances the requirement is totally false.**”

(emphasis supplied)

23.1. The respondent/landlord in reply to the aforesaid had taken the following stand: -

“7. In reply to para No.7 it submitted that the daughter of the petitioner namely Ms. Ranju Aggarwal resides in Ashok Vihar in her matrimonial home and as per the information received by the petitioner,



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her husband Shri Raj Kumar who is also engaged in travel business somewhere in the month of April, 2012 started a travel agency under the name and style of M/s. Yorks Travel and Forex Services Pvt. Ltd., from a space measuring 200 sq.ft. (Approx.), and the said daughter and her husband has nothing to do with the business of the petitioner. **However, in said the company, the grand son of the petitioner namely Rahul Aggarwal is also shown as additional director but since inception of the said company, it did not prove to be fruitful and thus Rahul Aggarwal is unable to adjust himself there and anticipates no scope to expand or flourish from there and even otherwise, the place from where the said company is running its business is a very small space having hardly 200 sq.ft. approx. (Basement). Hence he intends to join the petitioner and to assist the petitioner in the business to be started by the petitioner.** It is submitted that the petitioner has no where stated in the petition that Rahul Aggarwal is dependent upon him and rather stated that the petitioner who would be requiring manpower for running the business, is willing to include Rahul who has himself shown his willingness to join the petitioner in his business.”

(emphasis supplied)

23.2. Further, in rejoinder following averments were made by the said petitioner: -

“7. That the contents of para 7 are partly admitted that the daughter's husband is also running the independent business that admission has come after filing the details by the respondent and as such petitioner is guilty of concealment of true and material facts and thus petition is liable to be dismissed but in any case the respondent is entitled for leave to defend. **No reason has been given by the petitioner as to why he concealed the said material fact. It is false that the said business was started by Shri Raj Kumar only in 2012. No document has been field by the petitioner to show that the said business was started in 2012 only and even if this fact is taken as gospel truth, no reason has been given as to why he would leave his own business to start a new business with the petitioner which is contrary to the used practices as existing in India where married daughter and their husband always do their separate business. It is false that business of Shri Raj Kumar was not fruitful and as such Rahul Aggarwal his son was unable to**



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adjust himself there and anticipate no scope to expand or flourish from there and even otherwise the place from where the said company is running its business is a very small space. No evidence has been filed showing the only 200 sq. ft. place is available and that to how it is insufficient. No details of the employees working with him has been given. It is submitted that it is own admission of the petitioner that Rahul Aggarwal is not dependent upon him and as such the premises are not needed for him.”

(emphasis supplied)

The aforesaid fact that the business of Raj Kumar Aggarwal (father of Rahul Aggarwal) was not fruitful and his son-Rahul Aggarwal was unable to adjust himself in the said business is a triable issue which require reconsideration.

24. Similarly, the common stand taken by the petitioners is that the son of the respondent is already settled in Canada, and *bonafide* requirement of the respondent for expansion of the business of his son in India would also be a triable issue inasmuch as the eviction could not have been sought in case of a mere desire *vis-a-vis* a genuine *bonafide* need. The petitioners along with their leave to defend applications had placed on record the passport of the son of the respondent/landlord and his family members (wife and son) which reflects that they are holding permanent residency of Canada.

25. In **Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta**³⁹, the Hon’ble Supreme Court laid down the law in relation to scope of interference by the High Court in a petition under Section 25B (8) of the DRCA, and had

³⁹ (1999) 6 SCC 222



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observed and held as under: -

“11. The revisional jurisdiction exercisable by the High Court under Section 25-B(8) is not so limited as is under Section 115 CPC nor so wide as that of an appellate court. The High Court cannot enter into appreciation or reappraisal of evidence merely because it is inclined to take a different view of the facts as if it were a court of facts. However, the High Court is obliged to test the order of the Rent Controller on the touchstone of “whether it is according to law”. For that limited purpose it may enter into reappraisal of evidence, that is, for the purpose of ascertaining whether the conclusion arrived at by the Rent Controller is wholly unreasonable or is one that no reasonable person acting with objectivity could have reached on the material available. Ignoring the weight of evidence, proceeding on a wrong premise of law or deriving such conclusion from the established facts as betray a lack of reason and/or objectivity would render the finding of the Controller “not according to law” calling for an interference under the proviso to sub-section (8) of Section 25-B of the Act. A judgment leading to a miscarriage of justice is not a judgment according to law. (See: *Sarla Ahuja v. United India Insurance Co. Ltd.* [(1998) 8 SCC 119] and *Ram Narain Arora v. Asha Rani* [(1999) 1 SCC 141].)”

(emphasis supplied)

26. In these circumstances, the present petitions are allowed and disposed of accordingly. The impugned orders dated 02.07.2015 assailed in **RC.REV. 507/2015** and **RC.REV. 563/2015** passed by learned SCJ-cum-RC, Patiala House Courts, New Delhi, and impugned order dated 14.10.2025 assailed in **RC.REV. 99/2016** passed by learned ARC, Patiala House Courts, New Delhi, are set aside.

27. The applications seeking leave to defend filed by the petitioners are allowed. The parties are given liberty to amend their pleadings to enable them



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to explain their stands in respect to subsequent events in accordance with law. Learned ARC/RC would thereafter consider the entire material on record and decide the proceedings on their own merits, uninfluenced by any observations made by this Court in the instant petitions in accordance with law.

28. Pending applications, if any, also stand disposed of accordingly.

29. Needless to state that it shall remain open to the parties to lead evidence in trial to rebut the averments with respect to the subsequent events as well as other issues and the same would be considered by the learned ARC in accordance with law.

30. Copy of the judgment be sent to the concerned learned RC/ARC, New Delhi District, Patiala House Courts, New Delhi, for necessary information and compliance.

31. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA
(JUDGE)**

AUGUST 03,2026/bsr/ns