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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 354/2025, CM APPL. 70971/2025, CM APPL.
70972/2025, CM APPL. 70973/2025

KUNJ BIHARI AGARWAL

.....Petitioner

Through: Mr. Naginder Benipal, Mr. Anmol,
Mr. Udit Vaghela, Mr. Jaskaran
Singh and Mr. Arjun Baliyan,
Advocates.

versus

ARUN KUMAR MOONDHRA

.....Respondent

Through: Mr. R.Y. Kalia, Advocate (through
VC)

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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13.11.2025

1. By virtue of the present petition, the petitioner/ tenant seeks setting aside of the order dated 11.06.2025 passed by the learned Additional Rent Controller (Central), Tis Hazari Courts, Delhi in eviction petition being RC ARC 806/2023.
2. *Primarily*, it is the case of the petitioner that the learned ARC has failed to appreciate the various *alternative accommodations* available with the respondent/ landlord as also with his wife.
3. Learned counsel for the petitioner submits that learned ARC while passing the impugned order has failed to consider that an adjacent property to the subject premises belonging to the wife of the respondent, was lying vacant and for which, photographs were filed by the petitioner



before the learned ARC. Moreover, he submits that the learned ARC also failed to consider that the first floor of the same property was rented out to “*chada papers*” during the pendency of the eviction petition. Barring this, amongst the various grounds raised, learned counsel has neither pressed nor addressed any further arguments.

4. Upon perusal of the impugned order, this Court *prima facie* finds that the learned ARC, in the impugned order, has aptly dealt with each of the aforesaid contentions raised by the learned counsel for the petitioner.

Relevant extract thereof is reproduced as under:-

“24) Firstly, it is contended that the petitioner has alternative accommodation in the form of Flat no. 3B, Prem Shanti Kunj, 2 Club Road, Civil Lines, Delhi-54. However, no material has been placed on record to show as to how the said purported accommodation compares with the tenanted premises for a triable issue to arise qua the suitability of the said accommodation. Per contra, petitioner has categorically averred that the said property is purely residential in nature and the family of the petitioner is residing in the said property. In this regard, I also find it pertinent to note that the respondent himself has admitted in the paragraph 10 of his leave to defend application that petitioner has shifted his residence to Flat no. 3B, Prem Shanti Kunj, 2 Club Road, Civil Lines, Delhi-54. Therefore, no particulars have been pleaded about any vacant portion available in the said property which is suitable for projected bonafide need of the petitioner. Hence, no triable issue arises on account of said contention.

25) Secondly, it is contended that the first floor of premises no.4477, Nai Sarak, Delhi-06 fell to the share of the petitioner as per the documents relied upon by him and the said accommodation is lying vacant as he has shifted his residence to flat no. 3B, Prem Shanti Kunj, 2 Club Road, Civil Lines, Delhi-54. In this regard, the petitioner has not



disputed that the said premises falls to his share and is under his ownership. However, petitioner has categorically averred that the first floor of the said premises is occupied by tenant Piyush Chadha. Petitioner has also filed rent receipt dated 01.10.2024 in this regard. It is trite to state that the burden is upon the tenant to show that other alternative suitable accommodation is available with landlord and how the said premises were suitable for the pleaded requirement. Reference is made to the judgment of the Hon 'ble High Court of Delhi in the case of **Lalta Prasad Gupta Vs. Sita Ram, 2017 SCC Online Del 13026**, wherein it was held as under :-

"18. Thus, if the tenant seeks leave to defend controverting the requirement pleaded by landlord on the ground of the landlord, though at the time of requirement having alternate premises, having not used the same and instead having commercially exploited the same, the tenant must plead (a) the particulars of such premises; (b) the right/title of the landlord to the same; (c) that the said premises were vacant and available for use at the time of pleaded requirement of landlord; (d) how the said premises were suitable for the pleaded requirement; and (e) how the landlord has deprived himself thereof i.e. by sale or Jetting and **support the said pleas with material on the basis whereof such pleas will be proved**"

26) Per contra, no material has been placed on record by the respondent to even prima facie to show that the said premises is lying vacant and therefore, available to the petitioner for the projected bonafide requirement. In the absence of said material the said contention is a bald averment and no triable issues arises on account of the said contention.

27) Thirdly, it is contended that the wife of the petitioner is owner of ground floor having three godowns, second floor having four rooms, kitchen, toilet, and bathroom beside barsati floor having one room and open toilet in premises no.



3917, Roshanpura Chowk, Nai Sarak, Delhi. It is stated that the said accommodation is lying vacant and photographs have been filed in this regard by the respondent. However, it is contended on behalf of the petitioner that though the said premises /portion is owned by the wife of the petitioner, it is under the occupation of tenants. Hence, it is contended that the possession of the said portion is not available to the petitioner as the said portion is under the lock and key of the tenants of the said portions. In this regard, the petitioner has also filed rent receipts to show the occupation of the said portions by the respective tenants.”

5. As per trite law, the petitioner cannot be allowed to reargue/ reagitate the same issues which has been (rightly) rejected the learned ARC in the impugned order, particularly, whence this Court is sitting in a revisional jurisdiction. In any event, the primary argument of the petitioner *qua* the property belonging to respondent's wife cannot come to his, since it is an admitted fact that the respondent has shifted his residence to the said premises and as such, the respondent had no *alternative accommodation* available to him. Furthermore, it is an admitted fact that the same does not belong to him.

6. At this stage, without prejudice to the rights and contentions of the tenant and as a matter of abundant caution, learned counsel for the petitioner shall seek instructions *qua* the feasible time period within which the petitioner would vacate the subject premises and hand over the possession thereof to the landlord, along with the terms of payment *qua* user and occupation charges for the said period, within a period of *four weeks*.

7. Issue notice to the respondent on the aforesaid limited aspect.

8. Learned counsel for the respondent, appearing through video



conferencing, accepts notice.

9. Accordingly, renotify on 14.01.2026.

SAURABH BANERJEE, J

NOVEMBER 13, 2025/So