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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RC.REV. 414/2018, CM APPL. 34809/2018

NARESH KUMAR AGGARWAL & ANR Petitioners
Through: Ms. Amol Kaur, Adv.

versus

JAIN KAPILA Respondent
Through: Mr. Karan Sinha and Ms. Kashish
Arora, Advs.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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20.12.2025

1. By virtue of the present petition, the petitioners/ landlords seek setting aside of the order dated 07.07.2018 (***impugned order***) passed by the learned Additional Rent Controller, Central District, Tis Hazari Courts, Delhi (***learned ARC***) in eviction petition bearing No.478108/2016 filed by the landlords under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958 (***DRC Act***) seeking eviction of the premises being property No.3000, Second Floor, Chuna Mandi, Gali No.2, Pahar Ganj, New Delhi (***subject premises***), whereby the application seeking leave to defend of the respondent/ tenant has been allowed.

2. Though the landlords have raised various grounds in the present petition, however, learned counsel for the landlords has restricted her arguments to the incorrectness of the findings rendered by the learned ARC in *paragraph nos.9 and 10* of the impugned order whereby it has been held that “... *it is a triable issue whether the tenanted premises has*



been given for residential, or commercial purpose... ..”, as also that “... ..it is not clear whether the third and fourth floors are available for the personal residence of the family of the petitioner no.2, or not when his own brother i.e. petitioner no.1 is utilising the said property occasionally... ..”.

3. Relying upon ***Prativa Devi (SMT) vs. T. V. Krishnan: (1996) 5 SCC 353*** and upon a Coordinate Bench of this Court in ***Sudesh Kumari Soni & Anr. vs. Prabha Khanna & Anr.: 2008 SCC OnLine Del 1128***, the learned counsel submits that the aforesaid findings rendered by the learned ARC are against the principles enshrined in the DRC Act.

4. Based thereon, the learned counsel submits that since the landlords were the best judge of their (residential) requirements, they had complete freedom to opt for the premises best suitable for them for the said purpose, which has not been appreciated by the learned ARC. Further, whence it was the case of the landlords since the very inception of the Eviction Petition that the other floors of the property of which the subject premises are a part were not suitable to them, that too by categorically describing each of the said floors, the learned ARC could not have returned the aforesaid contrary findings *qua* the same.

5. The learned counsel draws attention of this Court to *paragraph no.18(a)(5)* of the eviction petition, which is reproduced hereinbelow:-

“18(a)(5). That the Petitioners have also got vacated third and fourth floor of the said property from Smt. Asha Devi, the earlier tenant on 24.2.2015 and the same is being used by the Petitioner no.1 who though residing at Patna, frequently visits to Delhi for his business purposes or otherwise to visit the place of in-laws of his married daughter at Antriksh Apartments, Rohini, Delhi and



generally he comes along with his Wife and two sons and therefore, using the third and fourth floor. The ground floor is being used for running the office of the firm namely M/s Anika Trading, of which the wife of the Petitioner no.2 is a proprietor.”

6. Leaned counsel for the tenant, on the other hand, supporting the findings rendered by the learned ARC, submits that no interference with the impugned order is called for by this Court, since the tenant was able to raise triable issues germane to proceedings under *Section 14(1)(e)* of the Act, as also that since the proceedings before the learned ARC are at the stage of recording of evidence, there is no reason for this Court to interfere with the findings rendered by the learned ARC.

7. This Court has heard learned counsels for the parties and perused the documents and pleadings on record as also the judgments cited.

8. Going by a bare reading of the impugned order, at the outset this Court has no hesitation in holding that the findings rendered by the learned ARC therein are not in accordance with law, more so, as evidently the learned ARC has traversed beyond the realm of the DRC Act. In an eviction proceeding under *Section 14(1)(e)* of the DRC Act, there is no requirement cast upon the landlord to specifically disclose whether the subject premises was given/ is being used/ will be used for residential or commercial purpose(s).

9. In any event, as held in ***Prativa Devi (supra)*** and ***Sudesh Kumari (supra)***, when a landlord requires the subject premises for the purposes of his personal residence, it is his prerogative to opt for the best suited premises, seeing his own convenience. It is trite that the tenant has no say in the said discretion, which is to be exercised solely by the landlord.



10. Moreover, present is a case wherein the landlord had given a detailed description of not only his requirements *qua* the subject premises, but also of the whole property wherein the subject premises is situated, and the unavailability and unsuitability of the said third floor and the fourth floor. As such, there could have hardly been any reason for the learned ARC to hold that the tenant was able to raise a *triable issue*.

11. In light of the aforesaid, the findings rendered by the learned ARC in the impugned order, especially those in *paragraph nos.9 and 10* therein, are liable to be set aside. Resultantly, the present petition is liable to be allowed, entitling the landlords to an eviction order in their favour, *albeit*, after giving a period of *six months* in terms of *Section 14(7)* of the DRC Act to the tenant to vacate and hand over peaceful physical possession of the subject premises.

12. At this stage, and considering the afore-going, learned counsel for the tenant seeks for grant of a further period of *two months* in addition to the above period of *six months* for vacating the subject premises without any protest and demur, as also pay the user and occupation charges for the said additional period at the prevalent market rent as determined by this Court.

13. Learned counsel for the landlords seeks, and is granted, a period of *two days* for reverting with instructions *qua* the aforesaid proposal.

14. Accordingly, renotify on 23.12.2025 at 02:30 P.M.

SAURABH BANERJEE, J.

DECEMBER 20, 2025/bh