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

Date of Decision: 2nd July, 2025

+ RC.REV. 126/2017, CM APPL. 523/2019, CM APPL. 42347/2023

NEERAJ KUMAR JOLLYPetitioner

Through: Dr. R.S. Sasan, Advocate alongwith
petitioner in-person

versus

RAGHU NATHRAKHEJARespondent

Through: Mr. P.C. Sharma, Mr. Manik Sharma
and Mr. Vatsal Sharma, Advocates
alongwith respondent in-person.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under section 25-B(8) of the Delhi Rent Control Act, 1958 ('DRC Act'), the petitioner (tenant) impugns judgment dated 06.10.2016 passed by the learned Rent Controller, Saket District Courts, New Delhi, whereby the petition filed on behalf of the respondent (landlord) seeking eviction of the tenant from Shop No.2 situate in property No. C-28 (Ground Floor), Amar Colony, Lajpat Nagar-IV, New Delhi ('subject premises'), has been allowed.



2. Notice on this petition was issued *vide* order dated 17.04.2017.
3. The court has heard Dr. R.S. Sasan, learned counsel appearing on behalf of the petitioner, as well as Mr. P.C. Sharma, learned counsel appearing on behalf of the respondent at considerable length.
4. The parties have also filed brief synopses of their respective submissions.

BRIEF FACTS

5. Briefly, the relevant facts necessary to decide the present revision petition are the following :
 - 5.1. The subject premises was originally taken on rent by the petitioner's father from the respondent's father on an oral tenancy in the year 1969-70 at a rent of Rs. 112/- per month.
 - 5.2. After the death of the original tenant - *viz.* the petitioner's father - the tenancy of the subject premises stood transferred to the petitioner, who continued to operate a photography business from the subject premises in the name and style of "Neelkamal Studio".
 - 5.3. Upon the demise of the original owner – *viz.* the respondent's father - the respondent's mother became the owner of the subject premises by way of substitution letter dated 17.05.1998 issued by the Land & Development Office.
 - 5.4. Subsequently, the respondent's mother executed a gift deed dated 25.02.2009 in favour of the respondent, by virtue of which the respondent became the sole and absolute owner of the subject premises.



- 5.5. After elapse of the legal bar contained in section 14(6) of the DRC Act, on 13.03.2015 the respondent filed an eviction petition under section 14(1)(e) of the DRC Act seeking the petitioner's eviction from the subject premises.
- 5.6. In his eviction petition, the respondent sought the petitioner's eviction from the subject premises on the ground that he required the premises *bona-fidé* for running a fast-food business therefrom.
- 5.7. At the time of filing of the eviction petition, the monthly rent for the subject premises was Rs. 132/-, excluding electricity and water charges, as detailed in para 11 of the eviction petition.
- 5.8. *Vide* order dated 19.08.2015, the learned Rent Controller allowed the petitioner's application seeking leave-to-defend the eviction petition; and after a full-dressed trial, *vide* judgment dated 06.10.2016, the learned Rent Controller allowed the eviction petition, thereby directing that the respondent was entitled to recover possession of the subject premises after expiration of a period of 06 months from the date of that judgment as provided under section 14(1)(d) of the DRC Act.
- 5.9. Aggrieved by judgment dated 06.10.2016 passed by the learned Rent Controller, the petitioner has filed the present revision petition.



PETITIONER'S SUBMISSIONS

6. In support of the petitioner's case, Dr. Sasan has made the following submissions :
- 6.1. It has been argued on behalf of the petitioner that in order to prove *bona-fidé* requirement, the respondent ought to have met the follow criteria :
- 6.1.1. That he is the absolute owner and landlord of the subject premises;
- 6.1.2. That he has *bona-fidé* requirement of the subject premises for himself or for any of his family members dependent upon him; and
- 6.1.3. That he has no other reasonably suitable, alternate accommodation available with him to fulfil his requirement.
- 6.2. It has been pointed-out on behalf of the petitioner, that the respondent filed the eviction petition on the ground that he *bona-fidé* requires the subject premises to operate a fast-food business, since he has been unemployed for the past more than 06 years.
- 6.3. It has been submitted that the respondent owns 07 shops (including the subject premises) in property No. C-28 (Ground Floor), Amar Colony, Lajpat Nagar-IV, New Delhi, the details of which are as follows :
- 6.3.1. Shop No.1, which is rented-out to a business in the name and style of "Angel Basket";



- 6.3.2. Shop No.2, which is in the petitioner's use and occupation, from which he runs a business in the name and style of "Neelkamal Studio" (i.e., subject premises);
- 6.3.3. Shop No.3, which is rented-out to a business in the name and style of "Kulfiano";
- 6.3.4. Shop No. 4, which was rented-out to "New Diamond Tailors" and has since been vacated by the erstwhile tenant on a compromise;
- 6.3.5. Shop No. 5, which is again in the respondent's own occupation, from which he runs a tailoring shop in the name and style of "Megha Tailors";
- 6.3.6. Shop No. 6, which is rented-out to a business in the name and style of "Amritsari Chaap"; and
- 6.3.7. Shop No.7, which is also rented-out to a private tenant.
- 6.4. Dr. Sasan has argued that the present case does not meet the aforementioned requirements, for the reason that the respondent has several other suitable, alternate premises available to him; and he is already running a fast-food business from one of those premises which was vacated by a different tenant recently.
- 6.5. Specifically, with reference to Shop No.4, it has been argued that the respondent had filed an eviction petition on similar grounds of *bona-fidé* requirement and that shop has since been vacated by the then tenant, namely the proprietor of "New Diamond Tailors" under a compromise arrived at between the



parties. It has further been submitted that the respondent is already running an eatery from Shop No.4 in the name and style of “Wheat Rolls”.

- 6.6. With regard to Shop No.5, Dr. Sasan has submitted, that on point of fact, that shop is also in the use and occupation of the respondent, since he runs a tailoring service called “Megha Tailors” from that shop in the name of his daughter. In this behalf, learned counsel has drawn attention to the respondent’s cross-examination dated 27.11.2015 recorded before the learned Rent Controller, in which he has admitted that the name of his daughter is Megha Rakheja. A copy of cross-examination dated 27.11.2015 has been appended as part of Annexure P-6 to the present revision petition.
- 6.7. Learned counsel has however also pointed-out, that subsequently, in the course of his cross-examination recorded on 04.02.2016, the respondent says that he has rented-out Shop No.5 to one Mr. Basant; and that he does not run a tailoring service from Shop No.5. In this behalf, Dr. Sasan has contended that Mr. Basant is only an employee of the respondent; and runs the tailoring shop as a front for, and on instructions of, the respondent. A copy of cross-examination dated 04.02.2016 has also been appended as part of Annexure P-6 to the present revision petition.
- 6.8. Dr. Sasan has submitted that the respondent has not approached the learned Rent Controller with clean hands and has



suppressed the fact that he owns property No. C-139, East of Kailash, New Delhi; certain floors in the neighbourhood where the subject premises is situated; as well as 03 shops in NOIDA, Uttar Pradesh.

- 6.9. Dr. Sasan has accordingly argued, that the learned Rent Controller has erred in omitting to take cognizance of the foregoing aspects; and therefore, the impugned judgment deserves to be set-aside.
- 6.10. Learned counsel has also submitted, that the stand taken by the respondent, that rental income is the only source of livelihood for him and his family members, is wholly inaccurate. In this behalf, Dr. Sasan has contended that the respondent's wife is running her own business in the name and style of "Fashion Boutique" and the respondent's daughter Damini is working in a multi-national company.
- 6.11. Dr. Sasan has submitted, that the respondent had deliberately rented-out Shop Nos. 3 and 6 during the course of the pendency of the eviction proceedings before the learned Rent Controller only so that he could claim that the subject premises was the only suitable accommodation available to him for the proposed fast-food business.
- 6.12. Learned counsel has submitted, that Shop Nos. 3 and 6 were rented-out by the respondent in 2014 for a period of 03 years, which agreement has also lapsed in June 2017. Dr. Sasan has accordingly argued, that if indeed the respondent had a *bona-*



fidé requirement, he could very well have started his business from Shop Nos. 3 and 6, which were vacated in June, 2017.

6.13. Lastly, Dr. Sasan has submitted, that the respondent acquired ownership of the subject premises on 25.02.2009 and was entitled to file the eviction petition after lapse of a period of 05 years in view of section 14(6) of the DRC Act. Dr. Sasan has however pointed-out that the respondent chose not to do so, despite the fact that the restriction period lapsed on 24.02.2014; and the respondent chose to file the eviction petition over a year later on 13.03.2015, despite claiming that he had remained unemployed for a period of 06 years. It has been submitted that this timeline also belies the respondent's claim that he had any urgent or *bona-fidé* requirement for the subject premises.

6.14. In sum and substance, the petitioner has contended that the respondent has had many options to start his proposed business, as detailed above; however, he has specifically chosen to ignore those options in order to raise the false ground of *bona-fidé* requirement for the subject premises before the learned Rent Controller.

RESPONDENT'S SUBMISSIONS

7. In support of the respondent's case, Mr. Sharma has parsed-out the following submissions :

7.1. It has been submitted that after the death of the respondent's father, the respondent became the owner of the subject premises



vide gift deed dated 25.02.2009 that was executed by the respondent's mother in his favour.

- 7.2. Owing to the bar under section 14(6) of the DRC Act, the respondent was only entitled to file the eviction petition after 05 years of 25.02.2009, namely after 24.02.2014.
- 7.3. Learned counsel has submitted, that the respondent had remained unemployed for more than 06 years and wanted to use the subject premises to earn his livelihood by running a fast-food business from there.
- 7.4. In this behalf, Mr. Sharma has placed reliance on the decision of the Supreme Court in ***Raj Kumar Khaitan & Ors. vs. Bibi Zubaida Khatun & Anr.***,¹ to argue that the landlord is under no obligation to furnish minute details of a proposed business in order to make-out his case of *bona-fidé* requirement of a tenanted premises. Furthermore, it has been argued that where there are multiple tenancies, it is the landlord's discretion as to which of the tenants he chooses to evict to fulfil his requirement.
- 7.5. Counsel for the respondent has argued, that the petitioner has failed to prove that any alternate premises is available to the respondent; and more specifically, the petitioner has been unable to substantiate the allegation that Shop No.5 is being

¹ (1997) 11 SCC 411



used by the respondent; or that Mr. Basant (to whom Shop No.5 has been let-out) is an employee of the respondent.

- 7.6. In light of the above arguments, Mr. Sharma has prayed that the judgment of the learned Rent Controller be upheld and the present revision petition be dismissed.

DISCUSSION & CONCLUSIONS

8. Upon considering the submissions made by learned counsel appearing on behalf of the parties and after perusing the impugned judgment, the aspects that prevail with this court are the following :
- 8.1. The tenancy in respect of the subject premises in favour of the petitioner is clearly a very old tenancy, dating back to sometime in 1969-70. The petitioner last paid rent of Rs.132 per month for the subject premises, which is a shop in an area which is heavily commercialized;
- 8.2. The impugned judgment has been passed after the petitioner was granted leave-to-defend the eviction petition and had the opportunity to lead evidence in defence to that petition.
- 8.3. The essential defence raised by the petitioner to his eviction was the assertion that the respondent had several suitable, alternate properties available for the purpose for which eviction was being sought.
- 8.4. To this end, the petitioner had contended before the learned Rent Controller that apart from a property in East of Kailash, New Delhi, the respondent has 07 shops in Amar Colony, Lajpat Nagar-IV, New Delhi (including the subject premises),



which were available to him for running his proposed fast food business. However, in his own written statement and the evidence led by him, the petitioner had also admitted that all the shops except shop No.4 were in the use and occupation of other persons.

- 8.5. It was the petitioner's own contention that shop Nos.1, 3, 6 and 7 had been rented-out to third parties; shop No.2 was in the petitioner's use and occupation *i.e.* the subject premises; and that Shop No.5, from which one Mr. Basant was running Megha Tailors, was in fact not let-out to any third party since Mr. Basant was an employee of the respondent, who was running a tailoring shop in the name of the respondent's daughter from that premises.
- 8.6. Accordingly, the only premises which was apparently vacated by the erstwhile tenant recently and was available vacant in the hands of the respondent was shop No.4. However, it is also the petitioner's admission that shop No.4 was vacated under a compromise by the then tenant during the pendency of the eviction petition against the petitioner and the respondent is now running an eatery from shop No.4 in the name and style of "Wheat Rolls".
- 8.7. The other contentions raised by the petitioner - *viz.*, that the respondent has another property in East of Kailash, New Delhi; or that he has 03 shops in NOIDA, Uttar Pradesh; *or* that during the pendency of the eviction petition he has let-out



certain other shops, the lease whereof had also run-out; *or* that he had delayed the filing of the eviction petition in question; *or* that the respondent's wife and daughter are gainfully employed - are irrelevant to the present consideration, not least because it is now settled that a landlord is entitled to decide which, out of many premises, he would want vacated. Besides, these are all issues of fact which have been considered and appropriately decided by the learned Rent Controller after a full-dressed trial.

9. It is no longer *res integra* that in its revisional jurisdiction under section 25-B(8) of the DRC Act, this court must refrain from interfering in conclusions of fact; and from substituting or supplanting its own view in place of a view taken by the Rent Controller.²
10. It is also well settled that this court may not convert revisional proceedings under section 25-B(8) of the DRC Act into appellate proceedings, since in the opening lines of section 25-B(8) of the DRC Act itself, the Legislature has in so many words barred an appeal or a second appeal against an order for recovery of possession passed by the Rent Controller.
11. As a sequitur to the above, this court is satisfied that the judgement of eviction passed by the learned Rent Controller *vide* judgment dated 06.10.2016 "is according to law" and calls for no interference by this court in its revisional jurisdiction.

²*Abid-Ul-Islam vs. Inder Sain Dua*, (2022) 6 SCC 30, para 23



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12. Furthermore, it is clarified that the respondent (landlord) is now at liberty to adopt his remedy for execution of the eviction order *forthwith* since the 06-month period provided under section 14(7) of the DRC Act has already lapsed and the judgment of eviction is now executable.
13. The present revision petition is accordingly dismissed; and stands disposed-of with the above observations.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J.

JULY 02, 2025

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