



2026:DHC:5885



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

Date of decision: 23.07.2026

+ RC.REV. 177/2026 & CM APPL. 34635/2026 (Stay)

SHYAM LAL GOYAL

.....Petitioner

Through:

versus

HARI OM RASTOGI

.....Respondent

Through: Mr. S. K. Bhaduri and Ms.
Neetu Gupta, Advs.

CORAM:

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

JUDGMENT (Oral)
21.07.2026

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1. The present Revision Petition, filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958¹**, assails the **Judgment dated 16.02.2026²**, passed by the **learned SCJ-cum-RC (East), Karkardooma Courts, Delhi³** in RC ARC No. 35/2025, whereby the **Application filed by the Petitioner/Tenant seeking leave to defend⁴** came to be dismissed and an eviction order in respect of property bearing no. **129/4, J & K Block, Near Narula Bakery, Laxmi Nagar, Delhi-110092⁵** was passed.

2. Learned counsel appearing on behalf of the Petitioner submits

¹ DRC Act

² Impugned Judgement

³ Learned ARC

⁴ leave to defend Application

⁵ Subject premises



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that the Impugned Judgement suffers from a material infirmity inasmuch as the learned ARC has failed to consider one of the principal contentions raised in the leave to defend application, *namely*, that the Respondent/Landlord had taken inconsistent stands with regard to the alleged *bona fide* requirement.

3. Elaborating upon the aforesaid submission, learned counsel submits that the Respondent had earlier instituted an eviction petition asserting that he intended to commence business from the Subject premises in the following manner:-*“The petitioner and his son petitioner have a dream to open a restaurant/to start a business at the ground floor of the property bearing no. 129, J & K Block, Near Narula Bakery, Laxmi Nagar, Delhi-110092”*. The said petition admittedly came to be withdrawn.

4. It is submitted that in the subsequent eviction petition, the requirement came to be projected as *“The petitioner, in fact through his son wants to open a Restaurant in shop no.1 to 4”*.

5. Learned counsel for the Petitioner, therefore, submits that such inconsistent pleadings demolish the plea of *bona fide* requirement and, at the very least, constituted a triable issue entitling the Petitioner to leave to defend.

6. Learned counsel further submits that the learned ARC has also erred in rejecting the plea relating to the availability of alternative suitable accommodation. It is submitted that sufficient material had been placed on record to demonstrate that the Respondent was already in possession of other shops which were reasonably suitable for the alleged requirement and, therefore, the findings returned by the learned ARC on the said aspect are unsustainable.



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7. ***Per contra***, learned counsel appearing on behalf of the Respondent supports the Impugned Judgement and submits that both the aforesaid contentions have been duly considered by the learned ARC.

8. It is further submitted that the present Petition merely seeks a re-appreciation of the material already considered by the learned ARC, which is impermissible while exercising the limited revisional jurisdiction under Section 25-B(8) of the DRC Act.

ANALYSIS:

9. This Court has heard the learned counsel appearing on behalf of the parties and, with their able assistance, perused the material placed on record.

10. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioners, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the proviso to Section 25B(8) of the DRC Act.

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

12. The aforesaid principles have also been reiterated and relied

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30



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upon by Coordinate Benches of this Court, *inter alia*, in **Pankaj Pahwa v. Prem Wati & Ors.**⁹, and **Sanjeev Hiranandani v. Sunny Grover**¹⁰.

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

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

14. In **Pankaj Pahwa** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in **Abid-Ul-Islam** (supra),

⁹ 2024:DHC:9322

¹⁰ 2025:DHC:11285



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reiterated that the jurisdiction exercised by this Court under the proviso to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

15. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B (8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Order suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

16. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioners against the Impugned Order are required to be examined.

17. At this juncture, this Court deems it apposite to reproduce the Discussion and Analysis undertaken by the learned ARC, which respect to the challenges raised before this Court, as were also raised before the learned ARC. The same read as under:



“10. The main ground taken by the respondent tenant in his leave to defend application is that there are additional accommodation already available with the petitioner which are suitable and convenient considering the need of the petitioner. It is submitted that the petitioner wants to open a restaurant in shop no. 1 to 4 through his son and that in his petition, the petitioner stated that they have dream to open the restaurant and that the petitioner does not have any bonafide need of the tenanted premises. Further it is stated that the petitioner and his son are running a property dealer shop under the name and style of M/s Raghu Property Dealer and the said shop is running since 2004 in shop no. 1 of the suit property. Further it is stated that shop no. 2 and 3 are lying vacant since last two year and that petitioner and his son never tried to any business for the said two shops. It is stated that the petitioner has not disclosed any reasons why the two vacant shops are not suitable for his restaurant business.

11. It is further submitted on behalf of the respondent that the petitioner has concealed the fact that he was working in NDMC and is now getting a pension from NDMC around Rs.17,000/-and that mother of the petitioner was also a Govt. Teacher and she is also getting her pension. It is further submitted that the petitioner has not been able to show that he and his son have any prior experience in the business of restaurant and that the petitioner could not show the qualification and experience who are necessary for opening up a new business of restaurant. Further it is stated that the son of the petitioner has stated that is children study in G. D. Goyanka Public School and the petitioner is paying Rs.94,800/- as quarterly school fee including other expenses and thus, it is clear that petitioner was or is having good lavish and luxurious life. It is further submitted that son of the petitioner is getting rent from the tenants of the first floor, second floor and basement.

12. The petitioner has stated that he wants to open a restaurant and that combined area of shop no.1 to 3 is not sufficient for opening of a restaurant and that is why shop no. 4 (suit property) is also required so that the restaurant can be opened after merging the area of shop no.1 to 4.

13. The plea taken by the respondent that the petitioner is drawing pension from NDMC and that mother of the petitioner is also getting pension and that grand children of the petitioner study in G. D. Goyanka Public School where Rs.94,800/- has been paid as quarterly school fee does not establish the fact that the suit property is not required by the petitioner for his bonafide requirement. Further it has been admitted that the Shop No.1 to 4 are in the same gali and are situated adjacent each other also demonstrates the bonafide requirement for Shop No.4. Receipt of rentals from the leased properties is a legitimate exercise. A plea of bonafide requirement has to be established on the fact that the landlord had



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no other suitable alternative accommodation and there was a need for the same and not mere wish. Sufficiency of income of landlord or that he was well-off cannot be com in eviction proceeding under the DRC Act. There can check or curtailment to the aspirations of an individual. Thus, the ground taken by the tenant that the family of the landlord is living a luxurious life style would have no bearing on the outcome of the present petition. The tenant has failed to show that there is any other suitable accommodation available with the petitioner where the restaurant could be opened. There is no dispute regarding the existence of landlord tenant relationship. The tenant cannot dictate the landlord that he must open his restaurant in the combined area of Shop No.1 to 3 and not in the combined area or Shop No.1 to 4. It is the prerogative of the petitioner landlord and his decision ought to be respected and if he is of the view that a restaurant can be opened in combined of Shop No.1 to 4, the tenant cannot dictate him to open a smaller restaurant in Shop No.1 to 3. It is settled law that the landlord is best judge of his bonafide requirement and as long as the requirement appears to be just a reasonable, the Controller has to accept the version of the landlord. The Court is of the view that the landlord petitioner has successfully demonstrated his bonafide requirement for shop no. 4. In view of the above discussion, it stands concluded that all the defences taken by the Respondent are vague and have failed to raise any triable issues The application for leave to defend filed by the Respondent accordingly rejected.”

18. The principal submission advanced on behalf of the Petitioner is that the Respondent/Landlord has taken inconsistent stands with respect to his *bona fide* requirement and that the said change demolishes the plea of *bona fide* requirement and itself constituted a triable issue warranting grant of leave to defend.

19. This Court is unable to persuade itself to accept the aforesaid submission. A plain reading of the pleadings in the earlier as well as the subsequent eviction petition demonstrates that the underlying requirement has remained substantially unchanged. The relevant paragraphs of both the eviction Petitions read as under:

1st Eviction Petition (Withdrawn)

“9. That the petitioner & his son both have a dream to open a restaurant/to start a business at the ground floor of the property



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bearing no. 129, J & K Block, Near Narula Bakery, Laxmi Nagar, Delhi-92 after breaking/removing the partitions of the said 4 shops but the respondent who has raised illegal demand of Rs. 25,00,000/- (Twenty five lac) for the eviction of the said tenanted shop/ tenanted premise/suit property.”

2nd Eviction Petition

“vi) That the Petitioner, in fact, through his son wants to open a Restaurant in Shop Nos. 1 to 4. The Son of the Petitioner namely Shri Amit Rastogi does not have any Shop and he wants to open a Restaurant at the ground floor portion of the aforesaid property. It is submitted that for opening a Restaurant and for sitting arrangement, 3 Shops in possession of the Petitioner are not sufficient and therefore, the Petitioner needs possession of Shop No. 4 and after getting possession of Shop No. 4, the Petitioner through his Son will start a business of Restaurant and Shop No. 4, which is in the tenancy of the Respondent will be used as a Kitchen area and other 3 Shops will be used as sitting area and cash counter, as shown in the Site Plan of the proposed Restaurant filed along with the present petition. The petitioner along with his Son Amit Rastogi want to run a restaurant and therefore, the Petitioner needs Shop No.4 for benefit of himself as well as for the benefit of the family of the Petitioner.”

20. As is evident from perusal, in both the eviction Petitions, the consistent case set up by the Respondent is that possession of Shop No.4 is required so that the adjoining shops can be amalgamated for establishing a restaurant for the benefit of the Respondent and his family, *inter alia*, his son. The subsequent eviction Petition merely elaborates the precise manner in which the proposed business is intended to be carried on by specifically pleading that the restaurant would be operated through the Respondent's son and by describing the proposed utilisation of each of the four shops. Such elaboration of the pleaded requirement cannot, by itself, be construed as a departure from or contradiction of the earlier case.

21. This Court is of the considered view that the distinction sought to be drawn by the Petitioner is founded upon an unduly hyper-



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technical reading of the pleadings.

22. Significantly, the contention with respect to the *bona fide* need of the landlord was specifically urged before the learned ARC as well, and the same was dealt with in the Impugned Judgement. The relevant portions thereof are reproduced herein before.

23. The learned ARC, while considering the leave to defend application, noticed the Petitioner's objection regarding the alleged inconsistency in the pleadings and has nevertheless concluded that the requirement projected by the Respondent is *bona fide* and genuine.

24. The learned ARC has further observed that the Respondent had successfully demonstrated the necessity of obtaining possession of Shop No.4 for establishing the proposed restaurant after combining Shops Nos.1 to 4. The said finding cannot be said to suffer from any jurisdictional error or perversity warranting interference in exercise of the limited revisional jurisdiction vested in this Court.

25. This Court is, therefore, of the opinion that no triable issue arose merely because the subsequent eviction petition contains a more detailed narration of the manner in which the proposed business is intended to be established. The first submission urged on behalf of the Petitioner is, accordingly, rejected.

26. Turning now to the second submission relating to the availability of alternative suitable accommodation, this Court finds no merit therein either.

27. In this regard, the principal ground of the Petitioner is that Shop Nos.1 to 3, already in possession of the Respondent, were sufficient for establishing the alleged proposed restaurant and, therefore, the requirement of the tenanted premises was neither genuine nor *bona*



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28. The learned ARC has specifically examined the aforesaid contention, whereby the learned ARC has recorded that the requirement pleaded by the Respondent was not merely to commence a restaurant business, but to establish the same by amalgamating Shop Nos.1 to 4. The learned ARC has further noticed that Shop No. 4 is admittedly adjacent to Shop Nos.1 to 3 and forms part of the same row of shops.

29. Upon consideration of the aforesaid facts, the learned ARC has concluded that it is for the landlord to determine the manner in which his proposed business is to be organised and that the tenant cannot dictate either the extent of accommodation required or compel the landlord to operate the proposed business from a smaller area.

30. The learned ARC has consequently held that the Petitioner had failed to disclose any other reasonably suitable accommodation available with the Respondent. The aforesaid reasoning, as is reproduced herein before, in the opinion of this Court, does not suffer from any manifest illegality or perversity.

31. The submissions advanced before this Court are, in substance, a reiteration of those urged before the learned ARC. Acceptance of the Petitioner's contention would necessarily require this Court to undertake a fresh appreciation of the factual matrix and substitute its own conclusions in place of those arrived at by the learned ARC. Such an exercise would travel beyond the limited contours of the revisional jurisdiction, as discussed herein before, under the *proviso* to Section 25B(8) of the DRC Act.

32. This Court, therefore, finds no jurisdictional error, material



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irregularity, patent illegality or perversity in the findings returned by the learned ARC. The Impugned Judgement reflects due consideration of the objections raised by the Petitioner and discloses a proper application of the settled principles governing eviction on the ground of *bona fide* requirement.

33. No ground for interference is, therefore, made out. Accordingly, the present Petition stands dismissed.

34. The present Petition, along with pending Application(s), if any, stands disposed of in above terms.

HARISH VAIDYANATHAN SHANKAR, J.
JULY 23, 2026/rk/dj