

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

% *Order delivered on: November 20, 2013*

+ **CM(M) No.1041/2011, CM Nos.16799/2011 & 16800/2011**

JASBIR SINGH Petitioner
Through Mr.R.S. Sharma, Adv.

versus

MANJIT KAUR & ORS Respondents
Through Mr.M.L. Bajaj, Adv.

+ **RC.REV. 179/2013 & CM No.7332/2013**

JASBIR SINGH Petitioner
Through Mr.R.S. Sharma, Adv.

versus

CHARAN KAUR AND ANR. Respondents
Through Mr.M.L. Bajaj, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (ORAL)

1. By way of the petition, being CM(M) No.1041/2011, under Article 227 of the Constitution of India the petitioner has assailed orders dated 19th May, 2011 and 26th August, 2010, where the order passed by the Additional Rent Control Tribunal dismissing the appeal of the petitioner against the order, i.e. the eviction order of the Additional Rent Controller dated 26th August, 2010 in respect of a shop in the property bearing no. XVII/2568,

Gali Mandir Wali, Shadi Khampur, New Delhi (hereinafter referred to as “the tenanted premises”).

2. In other petition filed by the same petitioner, being RC. Rev. 179/2013, he challenged the eviction order passed in second petition filed by the respondent under Section 14(1)(e) of the Act, under Section 25B(8) of the Act. Since facts in both the matters are common, both petitions are being decided by single order.

3. Firstly I shall deal with the petition, being CM(M) 1041/2011. The brief facts of the same for the purpose of adjudicating are that the respondents had filed an eviction petition against the petitioner under Section 14 (1) (a) of the Delhi Rent Control Act, 1958 (hereinafter referred to as “the Act”) on the ground that petitioner is habitual and wilful defaulter in making payment of rent and had failed to pay or tender the arrears of rent since September, 1991.

4. The respondents in the eviction petition stated that while the respondents No. 1 & 2 had purchased the tenanted premises from one Sh. Ram Kishan on 5th September, 1991, respondents Nos. 3 & 4 were the general attorneys of the seller as well as that of respondents Nos. 1 & 2. It was stated that the property stood mutated in the name of respondents Nos. 1 & 2 in the MCD records and that since the petitioner was a habitual defaulter of paying rent which was fixed as ₹200/- per month, the eviction petition was preferred.

5. In the written statement so filed by the petitioner, the relationship of landlord-tenant between the parties as well as the rate of rent was disputed. It was contended that the petitioner is the tenant of one Gurcharan Singh Roopra whose whereabouts were not known for more than 14 years, and also that the rate of rent was ₹20/- per month and not ₹200/- as stated by the

respondents in their petition, which used to be collected by Gurcharan Singh Roopra only. It was averred that once respondent No.3 had collected rent by misrepresenting that he was collecting the rent on behalf of Gurcharan Singh Roopra but when he was asked to show the authority letter, he did not visit again to collect rent. It was stated that even in the reply to the legal demand notice, the relationship of the parties was denied by the petitioner.

6. In replication respondents herein reiterated the contents of eviction petition. It was also said by respondents herein that petitioner herein in 1999 against Smt.Charan Kuar and her husband, Mohinder Singh had filed a suit for permanent injunction and petitioner in his statement given in court in his suit had stated that he got the knowledge of respondents herein becoming owners and landlord of the property. It was also stated in the replication by respondents herein that S.Gurcharan Singh Roopra, said to be landlord of petitioner herein, was a lessee of Choudhary Ram Kishan from 1970 to 1990. Incidentally it is being mentioned that said S. Gurcharan Singh Roopra had died during subsistence of lease in his favour and such the property reverted back to the original owner Choudhary Ram Kishan, who sold the same to respondent Nos.1 & 2 herein on 5th September, 1991.

7. Since the relationship of landlord and tenant was disputed, by petitioner, firstly the trial Additional Rent Controller, passed an order under Section 15(4) of the Act on 26th May, 2001, directing him to deposit rent at the rate of ₹20/- per month w.e.f. 15th January, 1998 in the Court. This order was not challenged by the petitioner.

8. In support of their case, in eviction petition, respondents herein examined respondent No.4 herein as PW-1, who is both general attorney of respondent No.1 and No.2 as also husband of respondent, Charan Kaur. Petitioner herein examined himself alone as RW1.

9. The learned Trial Court vide the impugned order observed with regard to the relationship between the parties that though the petitioner alleged that Gurcharan Singh Roopra was the owner of the tenanted premises, he had not filed any documentary proof thereof and had failed to prove the same, whereas the respondents had proved the lease deed executed between previous owner of the tenanted premises and Gurcharan Singh Roopra and also the manner in which he became the owner of the tenanted premises. The learned Trial Court observed that neither any suggestion was given from the petitioner nor any evidence was led to controvert the fact that Ram Kishan, as stated by the respondents, was the previous owner of the tenanted premises. It was also observed by the learned Trial Court that though the petitioner in his cross-examination, recorded in the suit for permanent injunction filed by him against respondents Nos. 1 & 2, had admitted the purchase of the tenanted premises by the respondents Nos. 1 & 2, but despite that he had not been paying rent to them. It was opined that it stood proved that the respondents Nos. 1 & 2 had purchased the tenanted premises and that an owner is always a landlord.

10. With regard to the rate of rent, on the basis of the materials placed on record, it was observed that the petitioner was able to prove that the rent was ₹20/- per month. However, as per his own statement in the affidavit, it stood proved that he was in arrears of rent w.e.f. September, 1991 and also that even after the demand notice, he had failed to pay or tender arrears of rent.

11. After trial, order under Section 15(4) of the DRC Act dated 26th May, 2001 was converted to one under Section 15(1) of the DRC Act, by order dated 26th August, 2010. This order alone, was challenged by petitioner herein before Shri O.P. Gupta, DJ-III cum ASJ(West)/ARCT Delhi, in Rent Control Appeal bearing No.RCT-10/2011, titled Jasbir Singh vs. Smt.Manjit

Kaur and others, the appeal was also dismissed by learned Additional Rent Control Tribunal vide order dated 19th May, 2011. In appeal grant of benefit to petitioner herein under Section 14(2) of the DRC Act dated 13th January, 2011, has not been challenged anywhere by the petitioner. In appeal, the learned Appellate Court observed that the appeal was barred by limitation by more than four months approximately. Though the delay was stated to be due to time taken in tracing the original death certificate of alleged original landlord, Ram Kishan, the learned Appellate Court opined that since Ram Kishan was neither a party in the eviction petition nor in the appeal, his death had no relevance. On this basis, the application for condonation of delay, the application for bringing on record additional evidence under Order 41 Rule 27 CPC as well as the appeal itself were dismissed vide order dated 19th May, 2011. The said two orders dated 26th August, 2010 and 19th May, 2011 are assailed before this Court.

12. Notice of this petition was issued, after completion of pleading, both parties made their submissions in the aforesaid matter. The Trial Court record has already been called for by this court. In the trial court file, respondents herein had proved documents exhibits AW1/2 (agreement to sell and purchase), exhibit AW1/3 (receipt), Exhibit AW1/4 (Will and exhibit AW1/5 (Affidavit), all executed by Choudhary Ram Kishan for consideration, in favour of respondents herein in manners required.

13. The case of petitioner herein was that he took the premises from Gurcharan Singh Roopra, lessee of Choudhary Ram Kishan for 20 years, ending in July, 1990. Respondents herein proved copy of registered lease deed dated 20th August, 1970 as AW1/1, executed by Choudhary Ram Kishan in favour of said Gurcharan Singh Roopra the lease commenced on 15th July, 1970 and came to an end on 14th July, 1990 and was not further

renewed. The respondents herein proved revenue record as Ex.P.No.AW1/10 and AW1/11 showing Choudhary Ram Kishan as one of the recorded owner of the property. Petitioner herein led no evidence to controvert that Choudhary Ram Kishan was not the owner of the property. Respondent also admitted in his cross examination that he has not got the documents exhibited by Choudhary Ram Kishan from any expert, said by him to be forged.

14. Exhibit AW1/16, on trial court record, is the statement of petitioner herein in his own suit, wherein, in his examination on 30th May, 2001, petitioner herein admitted that he had paid rent to Gurcharna Singh (respondent No.3 herein), who is husband of respondent No.1 herein. Petitioner herein in his said statement, in his own suit had also admitted that it has become known to him from others that Smt.Charankaur (respondent No.2 herein) and Manjit Kaur (respondent No.1 herein) had purchased the property. Petitioner herein further stated in his cross-examination in his said statement that he did not pay rent to Smt. Charan Kaur, despite knowledge because no other occupant was paying the same to her. In between on 16th February, 2005, Smt.Manjit Kaur, respondent No.1 herein through her husband as General Attorney of Choudhary Ram Kishan, had also sold her one half share in the property, in favour of Smt.Charan Kaur also respondent herein making her full owner of the property.

15. In *Ms. Jit Kaur (Jagjit Kaur) vs. Sh.Mool Chand*, 1982(2) RCR(Rent) 7, it was held that owner is always a landlord. It stands proved on record that respondents No.1 and 2 firstly purchased the property as owners and in 2005 respondent no.1 sold her one half share to Smt. Charan Kaur by registered sale deed making her full owner of the property.

16. Receipt of valid legal notice of demand and termination dated 31st May, 2002 exhibit AW1/12 has been admitted by the petitioner herein. In his cross examination petitioner herein had admitted that he did not send any arrears alongwith his reply to the notice of the respondents herein.

17. After conversion of order under Section 15(4) of the Act, to one under Section 15(1) of the Act, the petitioner herein, complied with orders throughout and the rent has been withdrawn by respondents herein, in favour of respondent Smt. Charan Kaur. After conversion of order under Section 15(4) of the Act to one under Section 15(1) of Act as also after dismissal of petitioner appeal, by Additional Rent Control Tribunal, it is admitted by petitioner that he has throughout been depositing rent under Section 27 of the Act, only in favour of two respondents herein, i.e. Smt. Manjit Kaur and Smt. Charan Kaur.

18. The learned Additional Rent Controller while deciding the eviction petition of the respondents under Section 14(1)(a) in paras 11 to 14 held as under:

“Arrears of Rent

11. It is the case of the petitioners that the respondent has not paid rent w.e.f. September, 1991. The respondent has not denied the same rather he has stated in his affidavit in evidence Ex.RW1/A that the last rent was paid by him in December, 1985. His plea is that the rent was used to be collected by Gurcharan Singh Roopra and since his whereabouts were not known and he did not visit to collect the rent, so the rent was not paid by him. The petitioners have claimed arrears of rent w.e.f. September, 1991 i.e. from the period since they purchased the property in question from the previous owner Sh.Ram Kishan. Hence, it stands proved that the respondent was in arrears of rent w.e.f. September, 1991 at the time of issuance of legal demand notice dated 31.05.2000 i.e. Ex.AW1/12.

Service of valid legal demand notice

12. Service of legal demand notice dated 31.05.2000 i.e. Ex.AW1/12 has been duly admitted by the respondent.

That the respondent has neither paid nor tendered the entire arrears of legally recoverable rent within two months of date of receipt of legal demand notice.

13. It is the case of the petitioners that despite receipt of legal demand notice Ex.AW1/12 the respondent has neither paid nor tendered the demanded arrears of rent. It is admitted case of the respondent that he did not pay any demanded arrears of rent to the petitioners after receipt of legal demand notice. He has admitted in his cross-examination that he did not send any arrears of rent alongwith the reply and also never deposited any rent in the Court prior to the filing of the present eviction petition. Thus, it stands proved that the respondent has failed to pay or tender the arrears of rent within two months of receipt of legal demand notice dated 31.05.2000 Ex.AW1/12.

14. From the abovesaid discussion it is clear that the petitioners have proved all the ingredients of Sec.14(1)(a) of DRC Act and therefore the present petition is held to be successful with respect to shop, forming part of property bearing no.XVII/2568, Gali Mandir Wali, Shadi Khampur, New Delhi as shown in red colour in the site plan now exhibited as Ex.C-1.”

19. The said findings of the trial court were challenged by the petitioner before the Tribunal by way of an appeal, being RCT 10/2011. The learned Appellate Court dismissed the same observing that the appeal was time barred and that the petitioner could not get the benefit under Section 14(2) of the Act again as he committed default in payment of rent for three consecutive months. The petitioner’s application under Order 41 Rule 27

CPC for additional evidence to produce the death certificate of Ram Kishan was also dismissed.

20. Both Courts after hearing both parties came to the conclusion that despite of benefit under Section 14(2) of the Act, the petitioner again committed defaults for three consecutive months. The said findings of the both the courts below cannot be reversed in the present petition as the same are in accordance with law.

21. It is well settled principle of law that the High Court while exercising its power under Article 227 of the Constitution of India, cannot proceed to act as a Court of appeal by interfering in mere errors of finding fact which requires re-appreciation and re-weighting of evidence unless it results in manifest miscarriage of justice as a Court of appeal. The said power under Article 227 of the Constitution of India has to be exercised sparingly and circumspectly to ensure that decision making done by lower Court and tribunal below is within their bounds and limits.

22. The said power under Article 227 of the Constitution of India being supervisory in nature cannot be equated with the powers of appellate Court and the jurisdiction under Article 227 could not be exercised as a cloak of an appeal in disguise.

23. In the case of ***Babhut Mal Raichand Oswal vs. Laxmi Bai R. Tarta*** reported in (1975) 1 SCC 858, the Supreme Court speaking through Bhagwati J. as his Lordship then was observed thus:

“If an error of fact, even though apparent on the face of the record, cannot be corrected by means of a writ of certiorari it should follow a fortiori that it is not subject to correction by the High Court in the exercise of its jurisdiction under Article 227. The power of superintendence under Article 227 cannot be invoked to correct an error

of fact which only a superior Court can do in exercise of its statutory power as a Court of appeal. The High Court cannot in guise of exercising its jurisdiction under Article 227 convert itself into a Court of appeal when the legislature has not conferred a right of appeal and made the decision of the subordinate Court or tribunal final on facts” (emphasis supplied)

The Supreme Court in the case of *Babhut Mal* (supra) approved the dictum of Morris L., J. in *Res v. Northumberland Compensation Appellate Tribunal*, 1952 All England Reports 122.

24. In the case of *State of Maharashtra vs. Milind & Ors.*, 2001 (1) SCC 4, the Supreme Court observed:

“The power of the High Court under Article 227 of the Constitution of India, while exercising the power of judicial review against an order of inferior tribunal being supervisory and not appellate, the High Court would be justified in interfering with the conclusion of the tribunal, only when it records a finding that the inferior tribunal's conclusion is based upon exclusion of some admissible evidence or consideration of some inadmissible evidence or the inferior tribunal has no jurisdiction at all or that the finding is such, which no reasonable man could arrive at, on the materials on record.” (Emphasis supplied)

25. Again in the case of *State vs. Navjot Sandhu*, (2003) 6 SCC 641, the Supreme Court observed:

“Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the

law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order.

However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate Courts and tribunals within the bounds of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised as the cloak of an appeal in disguise.” (Emphasis supplied)

26. The decisions of *Babhut Mal* (supra), *State vs. Navjot* (supra) and *State vs. Maharashtra* (supra) have been approved by Hon’ble Justice C.K. Thakkar as his Lordship then was in the case of *Shamshad Ahmad & Ors. vs. Tilak Raj Bajaj (D) By LRs. & Ors.*, 2008 (9) SCC 1.

27. Upon careful reading of observations in the above referred cases, it can be safely said that the scope of judicial interference under Article 227 is well settled and the Court ceased of the proceedings under Article 227 cannot act as a Court of appeal and should interfere with the decision of the inferior tribunal or Court only to keep the authorities and Courts within their bounds and in the cases where it results into manifest miscarriage of justice and not in all other cases to correct mere errors. The power under Article 227 is thus discretionary in nature and can be exercised in the cases where the lower Court ignores material piece of evidence or considers some

evidence which it ought not to have considered resulting into injustice and not in cases where there are two views possible and the view adopted by lower Court is reasonable and plausible one and the High Court would be unjustified to interfere in such cases merely to arrive at different view in the matter as this would be re-appreciating the evidence on finding of facts which is the role of the appellate Court and not the supervisory Court acting under Article 227 of the Constitution of India.

28. In the circumstances, petition of the petitioner herein is liable to be dismissed with costs throughout.

29. In another eviction petition filed against the petitioner under Section 14(1)(e) of the Act by the respondent herein, another eviction order dated 29th January, 2013 was passed in respect of the tenanted premises which is also challenged by the petitioner by way of a petition under Section 25B(8) of the Act, being RCR No.179/2013.

30. Brief facts for the purpose of adjudication of these petition filed by the petitioner under Section 25(B)8 of the Act are that the respondents filed the eviction petition stating that they bonafidely require the tenanted premises for their son who is engaged in the business of printing and is working from a rented accommodation. It was stated that the tenanted premises was required for the expansion of the business of their son and also for respondent no.2 who was stated to be engaged in the grossy business to keep himself busy in his old age and wanted to shift to the tenanted premises. It was stated that the son of the respondents was living with them, along with his wife and children and supporting them for all their needs in their old age and that there is no other suitable alternative accommodation available with them for the said purpose.

31. In the leave to defend application, the petitioner contested the title of the respondents and contended that the sale deed in their favour was forged and fabricated. It was averred that the original owner/landlord of the tenanted premises had expired and that the petitioner had become the owner by way of adverse possession. It was also contested the requirement of the respondents and contended that the respondents with a view to sell the tenanted premises want to get the same vacated. It was stated that a dispute of relationship of landlord and tenant between the parties was pending before this Court in another petition under Section 14 (1) (a) of the Act and till disposal of the said appeal, the respondents cannot be considered as owner/landlord of the tenanted premises. It was further stated that the respondents have more than sufficient accommodation in their possession which could be utilized by them to satisfy their needs. It was also contended that the son of the respondents was doing his printing business in another premises and the same were sufficient to satisfy their needs.

32. The learned Trial Court vide the impugned order, with regard to the relationship of the parties as well as, observed that the ownership of the respondents was clear from the sale deed placed on record by them. Even otherwise, the petitioner had tendered rent under Section 27 of the Act and after tendering the rent to the respondents upto 30th June 2013, the petitioner cannot challenge the title of the respondents.

33. With regard to the apprehension of the petitioner that the respondents may sell the tenanted premises after getting it vacated, it was observed by the learned trial court that in that case the petitioner would have right for re-entry in terms of Section 19 (2) of the Act.

34. The learned trial court also observed that though the petitioner had alleged that respondents have more than sufficient accommodations, no material was placed on record to prove the same.

35. On contention of the petitioner that the son of the respondent is already doing his printing business in another premises situated in the same locality, the learned Trial Court observed that this fact had already been explained by the respondents in their eviction petition that the son is doing his business in a rented accommodation and also that the same is not a triable issue in view of the explanation so given by the respondents.

36. Since the respondents had already proved their ownership by the way of sale deed, and also the fact that the petitioner had tendered rent to the respondents, the Learned Trial Court opined that after tendering rent to the respondents, the petitioner cannot deny the landlord-tenant relationship between the parties.

37. The learned Trial Court opined that the respondents were seeking the recovery of possession for their own bonafide requirement as well as the bonafide requirement of the son of respondent no.1, who is doing a printing business in another rented accommodation despite availability of his own accommodation and that even the respondent no. 2, stated to be engaged in the grocery business to keep himself busy in his old age, wanted to shift to the tenanted premises. In view of the learned Trial Court, it is a bonafide requirement of the respondents which cannot be disputed by the petitioner.

Scope of Revision

38. The issue before this Court is, whether said findings call for any interference by this Court in revisionary jurisdiction in view of the facts and

circumstances of the present case or not. It is settled law and it has been held from time to time by various courts that the revision under Section 25B(8) cannot be regarded as a first appeal and nor can it be as restricted as the revisional jurisdiction under Section 115 CPC. The High Court would have jurisdiction to interfere if it is of the opinion that there has been a gross illegality or material irregularity which has been committed or the Controller has acted in excess of his jurisdiction or has not exercised the jurisdiction vested in him. In other words, this Court has only to see whether the learned Rent Controller has committed any jurisdictional error and has passed the order on the basis of material available before it.

38.1 In ***Frank Anthony Public School vs. Smt. Amar Kaur***, 1984 (6) Delhi Reported Judgment 47, it was held that, “*The legislature has devised a ‘special procedure for the disposal of the application for eviction on the ground of bonafide requirement’. It is modelled on Order XXXVII of the Code of Civil Procedure. The object is to reduce delays in limitation. The object is to introduce a ‘summary trial’ in place of full length trial.*”

38.2 It was laid down in the judgment of the Apex Court in the case of ***Bell and Co. Ltd. vs. Waman Hemraj***, AIR 1938 Bom (223) as under:-

“In our opinion the jurisdiction of the High Court under proviso to Section 25B(8) has to be interpreted, keeping in view the legislative intent. The revision under Section 25B(8) cannot be regarded as a first appeal and nor can it be as restricted as the revisional jurisdiction under Section 115 CPC. The High Court would have jurisdiction to interfere if it is of the opinion that there has been a gross illegality or material irregularity which has been committed or the Controller has acted in excess of his jurisdiction or has not exercised the jurisdiction vested in him. A finding of fact arrived at by misreading or omitting relevant evidence and this has resulted in gross injustice being caused. If none of the aforesaid circumstances exist the High Court

would not be entitled to interfere with the order of the Controller in exercise of its jurisdiction under proviso to Section 25B (8) of the Act.”

38.3 In *Praveen Jain & Ors. (Shri) Vs. Dr. Mrs. Vimla*, 2009 IV AD (Delhi) 653, the High Court observed “the powers of this Court under Section 25B(8) are not appellate powers and this Court has only to see that the trial court had acted in accordance with law and not transgressed the limits of its jurisdiction”.

i) In the case of *Ramesh Chand vs. Uganti Devi*, 157(2009) Delhi Law Times 450, it has been held that while exercising jurisdiction under Section 25(B)(8), this Court does not act as a Court of appeal. This Court has only to see whether the learned ARC has committed any jurisdictional error and has passed the order on the basis of material available before it.

ii) A Full Bench of this Court in *Mohan Lal v. Ram Chopra and Anr.*, 1982 (2) RCJ 161 exhaustively considered the provisions of Section 25B of the Act. On the scope of the proviso to Sub-section (8) of this Section, after examining the judgment of Supreme Court in *Hari Shanker and Ors. v. Rao Girdhari Lal Chowdhury*, A.I.R. 1963 S.C. 698 and *Bell and Co. Ltd. v. Waman Hemraj*, AIR 1938 Bom (223) it was laid down as follows:

“In our opinion the jurisdiction of the High Court under proviso to Section 25B(8) has to be interpreted, keeping in view the legislative intent. The revision under Section 25B(8) cannot be regarded as a first appeal and nor can it be as restricted as the revisional jurisdiction under Section 115 CPC. The High Court would have jurisdiction to interfere if it is of the opinion that there has been a gross illegality or material irregularity which has been committed or the Controller has acted in excess of his jurisdiction or has not exercised the jurisdiction vested in him. A finding of fact arrived at by the Controller would not be interfered with by the High Court unless it can be shown that

finding has been arrived at by misreading or omitting relevant evidence and this has resulted in gross injustice being caused. If none of the aforesaid circumstances exist the High Court would not be entitled to interfere with the order of the Controller in exercise of its jurisdiction under proviso to Section 25B(8) of the Act.”

iii) In the case titled as ***Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta***, reported in AIR 1999 Supreme Court 2507, it has been held as under:-

“.....The revisional jurisdiction exercisable by the High Court under S.25-B (8) is not so limited as is under S.115, CPC nor so wide as that of an Appellate Court. The High Court cannot enter into appreciation or re-appreciation 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 that conclusion on the material available. Ignoring the weight of evidence, proceeding on wrong premise of law or deriving such conclusion from the established facts as betray the lack of reason and/or objectivity would render the finding of the Controller ‘not according to law’ calling for an interference under proviso to sub-section (8) of Section 25-B of the Act. A judgment leading to miscarriage of justice is not a judgment according to law.”

iv) The Supreme Court in another case titled as ***Chaman Prakash Puri vs. Ishwar Dass Rajput and Another***, 1995 Supp (4) Supreme Court Cases 445 has examined with regard to High Court’s power to interfere in revision against the finding as to bonafide requirement of landlord. It has been held that if the Rent Controller finds that landlord was in bonafide need of

premises, the High Court in revision was not entitled to re-appreciate evidence and reverse the finding.

v) The Apex Court in *Sarla Ahuja vs. United India Insurance Company Ltd.*, reported in AIR 1999 SC 100 held as under:-

“6. The above proviso indicates that power of the High Court is supervisory in nature and it is intended to ensure that the Rent Controller conforms to law when he passes the order. The satisfaction of the High Court when perusing the records of the case must be confined to the limited sphere that the order of the Rent Controller is “according to the law”. In other words, the High Court shall scrutinize the records to ascertain whether any illegality has been committed by the Rent Controller in passing the order under Section 25-B. It is not permissible for the High Court in that exercise to come to a different fact finding unless the finding arrived at by the Rent Controller on the facts is so unreasonable that no Rent Controller should have reached such a finding on the materials available.”

38.4 In *Rajender Kumar Sharma & Others Vs. Smt. Leela Wati & Ors.*, 155 (2008) DLT 383, the High Court observed that Section 25 B was inserted by the legislature in Delhi Rent Control Act as a special provision for eviction of the tenants in respect of specified category of cases as provided therein. Where a landlord seeks eviction on the basis of bonafide necessity, a summary procedure is provided and tenant has to seek leave to defend disclosing such facts which disentitled the landlord from seeking eviction.

39. In view thereof, the impugned order does not call for interference by this Court. Therefore, both petitions are hereby dismissed accordingly. However, in the interest of justice, equity and fair play, the petitioner is granted six months time from today to vacate the tenanted premises by handing over peaceful possession to the respondents. During this period, the

petitioner shall not sublet or create any third party interest in the tenanted premises.

40. No costs.

(MANMOHAN SINGH)
JUDGE

NOVEMBER 20, 2013