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

Date of decision: 20.08.2026

CNR No. DLHC010150982026

+ **RC.REV. 118/2026 & CM APPL. 23700/2026 (Stay)**

PRAVEEN ANEJA & ANR. Petitioners

Through: **Ms. Manisha Agrawal Narain,
Mr. Manan Soni and Mr. Ayush
Srivastava, Advocates.**

versus

NEELOFER JAMAL ALIAS NEELOFER AKRAM

.....Respondent

Through: **Mr. Harish Kumar and Mr.
Vinit Kumar, Advocates.**

CORAM:

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

% **JUDGEMENT (Oral)**

1. The present Petition has been filed under Section 25(8) of the **Delhi Rent Control Act, 1958¹**, assailing the **Order dated 24.12.2025²** passed by the **learned ARC-01, Central District, Tis Hazari Courts, Delhi³**, in **Eviction Petition bearing No. RC-ARC 123/2025⁴**, titled "*Neelofer Jamal Alias Neelofer Akram v. Praveen Aneja*", whereby the leave to defend Application filed by the Petitioners herein in the Eviction Petition came to be dismissed by the learned ARC and consequently, the Petitioners herein were evicted from the tenanted premises i.e. **one shop 7 X 30' situated on ground floor along with wooden parchhati bearing property No. 5602,**

¹ DRC Act

² Impugned Order

³ learned ARC



Gandhi Market, Sadar Bazar, Delhi - 110006⁵.

2. Learned counsel appearing on behalf of the Petitioners seeks to assail the Impugned Order on the ground that the learned ARC has proceeded substantially on the basis of the averments made by the Respondent, without such averments being supported by documentary material.

3. She submits that the Petitioners had placed on record an entire list of properties stated to be available with the Respondent, which, according to her, has not received individual and independent consideration by the learned ARC and is in contravention of the decision of the learned Coordinate Bench of this Court in ***Maher Elahi v. Rubana Haroon*⁶**, particularly Paragraph No. 12 thereof, which reads as under:

“12. In response to the aforesaid affidavit of the petitioner, the respondent in her reply, has not specifically dealt with each of the properties as mentioned. It is observed that neither in the eviction petition, nor in the reply to the leave to defend application, has respondent explained the connection of the respondent or her husband with Bharat Leather Works. A vague reply has been give that *“It is submitted that no any vacant premises available which is in possession of petitioner all mentioned properties by the respondent are either tenanted property to other tenant or ownership belongs to other persons than petitioner or her husband.”*

.....”

4. She submits that, in the absence of an individual rebuttal by the Respondent in respect of each of the properties specifically relied upon by the Petitioners, the learned ARC could not have rejected the said contention merely on the basis of general averments and therefore a triable issue warranting grant of leave to defend arises in her favour.

⁴ Eviction Petition

⁵ Subject premises

⁶ 2019:DHC:5384



5. She further submits that the *bona fide* requirement pleaded by the Respondent is itself doubtful, particularly in view of the financial and professional circumstances of the Respondent. It is submitted that the Respondent is not a person in penury or in need of establishing a business for earning her livelihood, as pleaded in the Eviction Petition, and that she was admittedly a Director of a guest house.

6. In support of the same, learned counsel appearing on behalf of the Petitioners rely upon the Judgment of the Hon'ble Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*⁷ and, in particular, Paragraph Nos. 18, 19 and 21 thereof, which read as under:

“18. For availing the leave to defend as envisaged under Section 25B(5), a mere assertion per se would not suffice as Section 14(1)(e) creates a presumption subject to the satisfaction of the learned Rent Controller qua bona fide need in favour of the landlord which is obviously rebuttable with some material of substance to the extent of raising a triable issue. The satisfaction of the Rent Controller in deciding on an application seeking leave to defend is obviously subjective. The degree of probability is one of preponderance forming the subjective satisfaction of the Rent Controller. Thus, the quality of adjudication is between a mere moonshine and adequate material and evidence meant for the rejection of a normal application for eviction.

19. Before a presumption is drawn, the landlord is duty bound to place prima facie material supported by the adequate averments. It is only thereafter, the presumption gets attracted and the onus shifts on the tenant. The object of Section 14(1)(e) vis a vis Section 25B has to be seen in the light of yet another provision contained under Section 19. Section 19 gives a right to the dispossessed tenant for repossession if there is a non-compliance on the part of the landlord albeit after eviction, to put the premises to use for the intended purpose. Such a right is available only to a tenant who stood dispossessed on the application filed by the landlord invoking Section 14(1)(e) being allowed. Thus, Section 19 inter alia throws more light on the legislative objective facilitating a speedy possession. The object is also reflected in the proviso to Section 25B(8), denying a right of appeal.

⁷ (2022) 6 SCC 30



21. We further wish to place reliance upon a recent decision of this Court in Ram Krishan Grover v. Union of India, (2020) 12 SCC 506, wherein this Court considered the aforesaid decisions in Inderjeet Kaur (supra) and Baldev Singh (supra) and interpreted the burden on the tenant to be rebutted at the stage of leave to defend and observed:

“39. The requirement of a “strong case” for obtaining leave to defend means a good case that brings to fore reasonable and well-grounded basis on which the tenant seeks leave to contest the eviction proceedings. It does not mean setting up and establishing at that stage a case beyond any scintilla of doubt and debate. The grounds and pleas raised should reflect clear and strong defence and relate to the grounds mentioned in para 25 in Baldev Singh Bajwa [Baldev Singh Bajwa v. Monish Saini, (2005) 12 SCC 778] . The standard applied is similar to parameters elucidated in Inderjeet Kaur v. Nirpal Singh [(2001) 1 SCC 706], in which this Court had held that the leave to defend should not be granted on mere asking but when the pleas and contentions raise triable issues and the dispute on facts demands that the matter be properly adjudicated after ascertaining the truth of affidavits filed by the witnesses in their cross-examination. Each case has to be decided on its merits and not on the basis of any preconceived suppositions and presumptions. By providing for a simplified procedure of eviction by the Non-Resident Indians, Section 13-B does not dilute the rights of tenants. It gives a chance to the tenants on merits to establish their case and when justified and necessary to take the matter to trial. By no means, therefore, Section 13-B can be held to be arbitrary and unreasonable.”

.....”

7. She, therefore, confines the challenge to the Impugned Order to the aforesaid aspects.

8. **Per contra**, learned counsel appearing on behalf of the Respondent supports the Impugned Order and submits that the present Petition merely seeks to re-agitate issues which were specifically raised before and duly considered by the learned ARC. He submits that the Impugned Order is a reasoned order and that no jurisdictional error or perversity has been demonstrated warranting interference in the revisional jurisdiction.



9. He further submits that the contention regarding the Respondent's husband being a Director has also been specifically considered by the learned ARC and, upon examination of the material placed before it, has rightly been rejected. He controverts the submissions that the Respondent/Landlord was in any manner involved in the guest house, and submits that in any event, the mere fact that the Respondent or her husband may be associated with a guest house does not, by itself, displace the *bona fide* requirement pleaded by the Petitioners, in respect of the subject premises.

10. He further submits that the contention regarding the alleged properties being available with the Respondent proceeds on an incorrect premise, since the Eviction Petition itself had disclosed the relevant properties and their status, and therefore, the Petitioners cannot contend that the Respondent failed to deal with the said properties merely because each of them was not separately reiterated in the reply to the application seeking leave to defend. He submits that the material placed before the learned ARC was duly considered and the findings returned thereon do not warrant interference.

11. Learned counsel for the Respondent, accordingly, submits that the Petitioners have failed to disclose any triable issue and that the present challenge, in substance, seeks a re-appreciation of the material already considered by the learned ARC, which is impermissible in exercise of the limited revisional jurisdiction under Section 25-B(8) of the DRC Act.

12. This Court has heard learned counsel appearing on behalf of the parties at length, and, with their able assistance, perused the relevant documents as well as the Impugned Order.

13. Before proceeding to examine the grounds of challenge urged



on behalf of the Petitioner, 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.

14. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁸, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁹, and, more recently, in *Abid-Ul-Islam* (supra), 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.

15. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in *Pankaj Pahwa v. Prem Wati & Ors.*¹⁰, and *Sanjeev Hiranandani v. Sunny Grover*¹¹.

16. In *Abid-Ul-Islam* (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25(B) 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

⁸ (1998) 8 SCC 119

⁹ (2014) 9 SCC 78

¹⁰ 2024:DHC:9322

¹¹ 2025:DHC:11285



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.”

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

18. 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

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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.

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

20. Since the principal grievance of the Petitioners is that the learned ARC has failed to consider the material placed on record, particularly with regard to the alleged availability of alternative accommodation and the circumstances surrounding the *bona fide* requirement pleaded by the Respondent, it would be apposite to first notice the relevant findings returned by the learned ARC on the aforesaid aspects. The relevant portion of the Impugned Order is extracted hereinbelow:

**“BONAFIDE REQUIREMENT AND NON-AVAILABILITY
OF ALTERNATIVE ACCOMMODATION”**

10) Since the two issues are inter connected, they are taken up together for consideration. It is pertinent to note here the judgment of the Hon'ble Apex Court in *Abid-ul-Islam Vs. Inder Sain Dua*, (2022) 6 SCC 30 where it was stated by the Hon'ble Court that requirement is the existence of bona fide need, when there is no other "reasonably suitable accommodation". Therefore, there has to be satisfaction on two grounds, namely, (i) the requirement being bona-fide and (ii) the non-availability of a reasonably suitable accommodation. ***Such reasonableness along with suitability is to be seen from the perspective of the landlord and not the tenant.*** Further, it is also a well settled proposition of law that it is not sufficient that any kind of the property should be available to the petitioner/landlord to rule out the benefit of 14(1)(e) of D.R.C. Act. It is also trite to state that the property available with the petitioner/landlord should also be reasonably suitable property. In *M M Quasim vs/ Manohar Lal Sharma*, (1981) 3 SCC 36, the Apex Court has that the landlord does not have an unfettered right to choose the premises *but merely showing that the landlord has some other vacant premises in his possession may not be sufficient*



to negative the landlord's claim if the vacant premises were not suitable for the purpose for which he required the premises. In the light of the said principles, I proceed to consider the contentions of the parties.

11) Petitioner has averred that she requires the tenanted premises as she is unemployed and wishes to start her own business/work of Artificial Jewellery for earning her livelihood. However, it is contended on behalf of the respondent that the petitioner is financially well off and her need is cosmetic. Here, I find it pertinent to note that the Hon'ble Supreme court in **Baldev Singh Bajwa vs Monish Saini (2005) 12 SCC 778** has held that *whenever a landlord seeks eviction of the tenant for Bonafide need, the controller shall presume the need as genuine and Bonafide. Additionally, the burden to refute the said presumption squarely lies on the tenant and mere assertion on the part of tenant is insufficient.* Hence, mere assertion of the respondent in this regard does not amount to any triable issue. Even otherwise, the said averments do not assist the case of the respondent as no material has been placed in support of the said contentions. In this regard, it is also pertinent to note that a person cannot be expected to sit idle and reach a state of starvation before his need is considered Bonafide. Reliance in this regard is placed upon the decision of Hon'ble Supreme Court in the case of **Raghunath C. Panhale Vs. M/s Chaganlal Sunderji & Co. AIR 1999 SC 3864** wherein it was observed that:

“A landlord need not lose his existing job nor resign it nor reach a level of starvation to contemplate that he must get possession of his premises for establishing a business.”

12) Further, I also find it relevant to refer to the case of **Smt. Phool Kumari & Ors. Vs. Sh. Shyambir Tyagi RCR No. 318/2013 dated 01.10.2014**, wherein the landlord sought possession of the tenanted premises on the ground that he was unemployed and needed the premises to open a shop. The tenant denied that the landlord was unemployed. *The Hon'ble High Court of Delhi upheld the order of the Ld. Trial Court and observed that no triable issues were raised which warrant that the application for leave to defend be allowed.* Hence, the contention that the petitioner is financially well off does not amount to any triable issue. Further, in this regard, the provision of Section 19(2) of DRC Act is to be emphasized which protects a tenant in case the landlord recovers possession of any premises and the premises are not occupied by the landlord or by the person for whose benefit the premises are held within two months of obtaining such possession, or having obtained the possession, the same are re-let to any other person



within three years from the date of obtaining the possession. Thus, the said contention is devoid of merits.

13) Next, it is contended that the petitioner is also running a Guest House in the name and style of "Metro Guest House" In Property no. 639, Churiwalan, Jama Masjid, Delhi-110006. However, bare perusal of the said shows that is already being used for a business and is being run by Azhar Jamal brother of deceased husband of the petitioner under a license. Hence, it cannot be said to be vacant and available for the projected Bonafide needs of the present matter. Also, in case the petitioner fails to occupy the premises as claimed by her, the Delhi Rent Control act also provides for recovery of possession by the tenant/respondent of the tenanted premises for his re-entry and occupation. ***It is pertinent to note herein the case of Ravichandran and Ors. Vs Natrajan Nadar and Ors. (2004) 1 MIJ 458, wherein it was held:***

“Even assuming that other promises are available, then the choice is left to the landlord to decide as to which non-residential premises he should occupy, and the tenant cannot have any say in the matter. If the landlord is able to show the bonafide, then the tenant cannot dictate terms to the landlord that he should occupy some other building and not the one mentioned in the petition.”

14) Further, reference is made to the decision of the ***Hon’ble High Court of Delhi in the case of M/s A.K. Woolen Industries and Ors. Vs. Shri Narayan Gupta RC Rev. 495/2017 dated 31.10.2017*** in which the following was held:-

*“19. The law to be applied in this regard has been laid down by the Supreme Court in **Ragavendra Kumar Vs. Firm Prem Machinery & Co. (2000) 1 SCC 679, Sait Nagjee Purushottam & Co. Ltd. Vs. Vimlabai Prabhulal (2005) 8 SCC 252 and Anil Bajaj Vs. Vinod Ahuja (2014) 15 SCC 610.** It has been held that even if the landlord has other commercial premises available to him and even if the landlord is carrying on other businesses, if it is found that the landlord intends to use the premises in occupation of the tenant for carrying on his business therefrom, the landlord is entitled to an order of eviction and the Courts cannot intervene in the same.”*

15) Hence, merely because petitioner is already carrying on business from the said premises, this by itself is not a ground of deny the order of eviction. Furthermore, the petitioner has filed the copy of the license issued in favour of Azhar Jamal (brother of deceased husband of the petitioner) to run Metro Guest House in



his own name. *Per contra*, no documents have been placed on record by the respondent to even prima facie show the sole ownership of petitioner of the entire building. Even otherwise, as per documents on record, it is not the petitioner but her brother-in-law who is running business in the said property. Therefore, the said property cannot be held to be alternative accommodation of the petitioner herein. In this regard, reliance is placed upon the case of *Saroj Khemka Vs. Indua Sharma*, 79(1999) DLT 120, wherein Hon'ble High Court upheld the rejection of leave to contest, holding that no court can compel a person to adjust in the property of his relative.

16) Next, it is contended that the petitioner has concealed the fact that the petitioner had sold (1) shop no. 5603, Ground floor, Gandhi Market, Sadar Bazar, (2) shop no. 5604, Ground floor, Gandhi Market, Sadar Bazar, (3) shop no. 5487, Ground floor, Gandhi Market, Sadar Bazar, (4) shop no. 5609, Ground floor, Gandhi Market, Sadar Bazar, (5) shop no. 5599, Ground floor, Gandhi Market, Sadar Bazar and (6) had also sold her share in property no. 785, Katra Bashir Ganj, Ballimaran, Delhi-110006 prior to the filing of present eviction petition. Hence, it is contended that the need of the petitioner is not Bonafide. Perusal of record however shows that the present eviction petition has been filed in the year 2025, whereas Shop no. 5603, 5604 Ground Floor Gandhi Market, Sadar Bazar were sold in the year 2024 and Shop no. 5609 Ground Floor, Shop no. 5599 First Floor Gandhi Market, Sadar Bazar were sold in the year 2022 and the petitioner had sold her share in property no. 785, Katra Bashir Ganj, Ballimaran, Delhi-110006 in the year 2021. It is trite to state that time is not static and with lapse of time, new needs may emerge which were not existing earlier. Petitioner has already stated in her petition that she had sold properties for the welfare of her children. Furthermore, in the case of *Shyam Sunder Ahuja Vs. Sushil Kumar*, 2017 SCC Online Del 10624, the Hon'ble High Court of Delhi has held that the plea that the landlord has sold some property or let out some property is not a ground to deny the order of the eviction to the landlord. The relevant extract is reproduced here under:-

“16. Not only so, the petitioner tenant also did not state that there was no change in the requirement of the respondent/landlord since then. Merely taking a plea that the respondent/landlord has in the past sold some property or let out some property has in Narender Kumar Shah Proprietor Jay Bharat Steels Vs. Malti Narang 2014 SCC Online Del 3839 and Anil Kumar Bagania Vs. Shiv Rani 2014 SCC Online Del 6645 been held to be not a ground for denying order of eviction to landlord on the



ground of self-requirement of premises.”

17) Further, reference is made to the decision of the **Hon'ble High Court of Delhi in the case of Mohinder Singh Vs. Satish Chander Sikka RC Rev. 35/2023 dated 08.10.2025** in which the following was held :-

“14. Further, the sale of certain premises by the landlord before filing of the eviction petition under Section 14(1)(e) of the DRC Act are irrelevant and immaterial as they cannot be a determining factor for his need of the subject premises at present. Once again, sale purchase/lease of other properties by the landlord are not an impediment for a landlord to file eviction proceedings under Section 14(1)(e) of the DRC Act. In any event, the tenant had merely made bald and vague assertions with no substantiation, which in view of the settled position of law in Sarla Ahuja v. United India Insurance Co. Ltd. and Deena Nath v. Pooran Lal were insignificant and inconsequential.”

18) Next, it is contended on behalf of the respondent, that premises is not required by the petitioner for her Bonafide need for herself or her family members as the family members of the petitioner are highly qualified, educated and are settled abroad. However, no cogent proof has been filed by the respondent to deny that the claim of the landlord/petitioner is not genuine. Here, I find it pertinent to note that the Hon'ble Supreme Court in **Abid-ul-Islam Vs. Inder Sain Dua, (2022) 6 SCC 30** has held for availing leave to defend a mere assertion by the tenant is insufficient. Section 14(1)(e) of the Act creates a presumption in favour of the landlord regarding bona fide need, which is rebuttable only with substantive material capable of raising a triable issue. It was further held that the burden of proof is on the tenant to demonstrate, with cogent evidence, that the landlord's requirement is not genuine. The Court also reiterated the settled principle of law that leave to defend should not be granted on mere asking but when the pleas and contentions raise triable issues. The relevant extract of the **Abid-Ul-Islam case** is extracted below:-

“18. For availing the leave to defend as envisaged under Section 25-B (5), a mere assertion per se would not suffice as Section 14 (1) (e) creates a presumption subject to the satisfaction of the learned Rent Controller qua bona fide need in favour of the landlord which is obviously rebuttable with some material of substance to the extent of raising a triable issue. The satisfaction of the Rent Controller in deciding on an application seeking

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leave to defend is obviously subjective. The degree of probability is one of preponderance forming the subjective satisfaction of the Rent Controller. Thus, the quality of adjudication is between a mere moonshine and adequate material and evidence meant for the rejection of a normal application for eviction.

19) However, bald averment has been made without placing any material on record. Here, I also find it pertinent to refer to the decision of the Hon'ble High Court passed in the case of **Mohd. Nasser Vs. Mohd. Zaheer and Anr. RC Rev. No. 267/2016 dated 03.11.2016** is to be noted in which the following was held:-

“19. ...Mere raising of baseless contentions against the landlord cannot be a ground for being granted leave to defend to the petitioners. It cannot be said that the petitioners have given facts or particulars which require to be established by way of evidence. The petitioners have merely made allegations for the sake of making allegation. There is no merit in the said plea of the petitioner.

20. The trial court has rightly concluded that the petitioners have failed to place on record any material to raise a suspicion that the respondents are having a vacant space on the ground floor of the suit property which can be used by them to open his workshop for industrial tools.”

20) Counsel for the respondent has also relied upon various judgments to contend that ‘in cases where additional accommodation is asked for, normally leave to defend should not be refused.’ However, the said judgments do not lay down any principle of law much less salutary principle of law to **be applied irrespective of the facts of the case**. Hence, it is not a proposition calling for universal application per se so that even if, *facts prima facie incredible in nature* are pleaded; they should like a password result in leave to contest being granted. Reliance in this regard is placed upon decision of Hon'ble High Court of Delhi in **A. M. Shah vs Pushpa Sood, 92 (2010) DLT 694 and Chand Daga vs Inder Mohan Singh Rana, 2002(610) DRJ 410**. Further, only by looking into facts and circumstances of the case, it can be determined whether grounds for granting leave are made out or not. It is always the prerogative of the landlord that if he requires the premises in question for his Bonafide use for expansion of his business, then, it is not for the respondent/tenant to dictate the terms and advice as to what and what not should the landlord do when he has other premises available.

21) Furthermore, it is a well settled principle of law that a Rent Controller has to see the Bonafide requirement of the petitioner and



not the comparative hardship of the respondent. Hence, the claim that the respondent is dependent upon the tenanted premises is also devoid of merits. Reliance in this regard is placed upon the Apex Court's decision in **Bega Begum and Ors. v. Abdul Ahad Khan and Ors (1979) AIR 272** that *the inconvenience, loss and trouble resulting from denial of decree of eviction in favour of the landlord far outweigh the prejudice or the inconvenience which will be caused to the tenant*. Therefore, no triable issue arises on account of said contention.

22) **Lastly**, it is contended that alternative accommodation is available with the petitioner and the petitioner has concealed the said fact as alternative accommodation in the form of *different shops properties i.e. Property no. 5484/8, 5484/9, 5484/10, 5484/19, 5484/20, 5484/L, 5484/N, 5484/O, 5485/1, 5485/2, 5485/3, 5485/4, 5485/5, 5488, 5488/I, 5484/P, 5520, 5521, 5522 (Part), 5573, 5574, 5572 (Part), 5597, 5598, 5600, 5601, 5602, 5605, 5606, 5607, 5608, 5610, 5611, 5612 Gandhi Market, Sadur Bazar Delhi-110006*. Per contra, it is contended on behalf of the petitioner that the petitioner has already disclosed the properties which were owned by her husband and the said shops are already under occupation of different tenants. Though the respondent has contended that petitioner has not filed any document to show the same, it is trite to state that onus is upon the respondent to show on prima facie basis that the said properties do belong to the petitioner or are under the occupation and possession of the petitioner and not for the petitioner to prove the negative assertion. The said plea is also a bald averment only. 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 letting and support the said pleas with material on the basis whereof such pleas will be proved.”*



23) Further, it is submitted on behalf of the respondent that petitioner is also co-owner of different properties *i.e. Property no. 4923, 4923-A, 4924, 4925, 4926-4928, 5028/1-6, Sadar Bazar, 5015, 5018-5027, Rui Mandi, Sadar Bazar, 5839, Swadeshi Market, Sadar Bazar, 581 Gali Jutey Wali, Chooriwalan, Delhi.* Petitioner has refuted the claims of the respondent and has submitted that she has already relinquished her share in the aforesaid properties in favour of her mother and brother in the year 2015 vide relinquishment deed. It is pertinent to note that as per respondent himself, the aforesaid properties are jointly owned by Petitioner. Therefore, it cannot be said that the said properties are solely available to the petitioner for her projected need.

24) It is also pertinent to note here that the Hon'ble Supreme Court in **Abid-ul-Islam Vs. Inder Sain Dua, (2022) 6 SCC 30** has held for availing leave to defend a mere assertion by the tenant is insufficient. Section 14 (1) (e) of the Act creates a presumption in favour of the landlord regarding *bona fide need*, which is rebuttable only with substantive material capable of raising a *triable issue*. **It was further held that the burden of proof is on the tenant to demonstrate, with cogent evidence, that the landlord's requirement is not genuine.** The Court also reiterated the settled principle of law that leave to defend should not be granted on mere asking but when the pleas and contentions raise triable issues.

25) Therefore, for availing the leave to defend as envisaged under Section 25-B(5), a mere assertion per se would not suffice as Section 14 (1) (e) creates a presumption subject to the satisfaction of the learned Rent Controller qua *bona fide need* in favour of the landlord which is *obviously rebuttable with some material of substance to the extent of raising a triable issue*. The degree of probability is one of preponderance forming the subjective satisfaction of the Rent Controller. **Thus, the quality of adjudication is between a mere moonshine and adequate material and evidence meant for the rejection of a normal application for eviction.**

26) In this regard, I find it pertinent to note that the Hon'ble Supreme Court and the Delhi High Court have repeatedly held that the Courts are not to sit in the armchair of the landlord and dictate as to how the available property of the landlord is to be best utilized by him. ***The landlord is the absolute owner of his property and is the best person to decide which property is to be utilized in what way. The respondent cannot dictate as to how the landlord is to utilize his property. The landlord possesses the prerogative to determine their specific requirements, exercising full autonomy in this regard.*** Hence, it is not within the purview of the courts to impose directives on the landlord regarding the nature or quality of their



chosen usage of the tenanted premises. Therefore, the courts refrain from prescribing any standard or guidelines for the landlord's choices (residential or commercial). Reliance is placed upon the decision of the Hon'ble Delhi High Court in case of ***Praveen & Anr. Vs. Mulak Raj & Ors. RC Rev. 417/2016*** in this regard. Further, it is trite to state that there is no requirement of the landlord to set out exactly what area is required in terms of giving the measurement. Reliance in this regard is placed upon the order of the Hon'ble Delhi High Court in ***RC Rev. No. 224/2023 Sharad Jain Vs. Jayanti Jain Prasad dated 28.01.2025***. Furthermore, in the case titled as ***Ragavendra Kumar Vs. Firm Prem Machinery 2000 SC 534***, it was observed as under: -

“It is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter, (See: Prativa Devi (Smt.) v. T.K Krishnan [1996] 5 SCC 353. In the case in hand the plaintiff- landlord wanted eviction of the tenant from the suit premises for starting his business as it was suitable and it cannot be faulted.”

27) Also, in case the petitioner fails to occupy the premises as has been claimed by her, the Delhi Rent Control Act provides for recovery of possession by the respondent/tenant of the tenanted premises for his re-entry and occupation. *Hence, I find that the respondent has failed to raise any triable issue on the aspect of Bonafide need and non- availability of alternative accommodation as well”*

(emphasis supplied)

21. Insofar as the aforesaid grounds of challenge are concerned, the relevant findings, extracted hereinabove, returned by the learned ARC demonstrate that the contentions raised by the Petitioners have been duly considered. The learned ARC has examined the question of *bona fide* requirement and availability of alternative accommodation together, keeping in view the requirement of the Respondent to start her own business of artificial jewellery and the objections raised by the Petitioners with regard to her financial position, the Guest House allegedly being run by her family members, the properties stated to



have been sold by her and the other properties alleged to be available with her.

22. At the outset, the submission that the learned ARC has proceeded merely on the basis of the averments contained in the Eviction Petition, without considering the material placed by the Petitioners, does not find support from the Impugned Order.

23. It is discernible from the Impugned Order that the learned ARC has specifically considered the material relied upon by the Petitioners and has tested the same against the requirement of raising a triable issue at the stage of leave to defend. The findings record that, apart from making assertions regarding the financial position of the Respondent and the availability of other properties, the Petitioners had not placed material sufficient to substantiate those assertions.

24. The contention regarding the Respondent's financial position and the alleged absence of any necessity to commence a business has also been specifically considered. The findings returned by the learned ARC have taken note of the Respondent's assertion that she is unemployed and seeks to commence the business of artificial jewellery for earning her livelihood, and also considered the Petitioners' contention that she is financially well-off.

25. The conclusion that a mere assertion as to the financial position of the Respondent, unsupported by material, would not constitute a triable issue cannot be said to be an implausible or perverse view warranting interference in the present proceedings.

26. Equally, the contention regarding the Guest House has not been overlooked. The learned ARC has specifically noticed the allegation concerning *Metro Guest House* at Property No. 639, Churiwalan, Jama Masjid, and has examined the material on record to find that the



said premises were already being utilised for business and were being run by Azhar Jamal, stated to be the brother of the Respondent's deceased husband, under a licence. It was further noticed that no material was placed by the Petitioners, even *prima facie*, to establish that the entire property was under the sole ownership or control of the Respondent. On that basis, the said premises were not treated as an alternative accommodation available to the Respondent for the projected requirement.

27. Further, the submission regarding the sale of various properties has also received specific consideration, whereby it was noticed that the dates on which the properties relied upon by the Petitioners were sold, and it was found that such sales had taken place between 2021 and 2024, whereas the Eviction Petition was instituted in the year 2025.

28. Therefore, the findings proceeded on the basis that the existence of a requirement has to be assessed with reference to the circumstances prevailing when such requirement is pleaded and that a previous sale of a property, by itself, would not establish that the present requirement is not *bona fide*. This reasoning, particularly in the absence of any material demonstrating that the properties sold were available to the Respondent for the requirement now pleaded, cannot be characterised as perverse.

29. The principal grievance of the Petitioners, however, concerns the numerous properties alleged to be available with the Respondent. A perusal of the Impugned Order shows that the learned ARC has not simply brushed aside the said contention. The properties specifically enumerated by the Petitioners have been noticed, followed by consideration of the Respondent's explanation that the properties were



either owned by her husband and/or were under the occupation of different tenants and thereafter, the respective assertions were examined in the context of the burden resting upon the tenant to demonstrate, even *prima facie*, that an alternative accommodation is available with the landlord and that such accommodation is reasonably suitable for the requirement pleaded.

30. The reliance placed by upon ***Maher Elahi*** (supra), therefore, does not assist the Petitioners to the extent suggested. The proposition that a landlord must deal with a specific plea concerning alternative accommodation cannot be divorced from the factual circumstances of each case.

31. In the present matter, the Impugned Order demonstrates that the learned ARC has considered the properties relied upon by the Petitioners and the explanation furnished in respect thereof, and has ultimately found that the Petitioners had failed to place material which would *prima facie* establish both the availability of such premises to the Respondent and their suitability for the requirement pleaded.

32. The distinction between the mere existence of a property and the availability of a *reasonably suitable accommodation* has also been expressly noticed. The learned ARC has proceeded on the settled principle that the suitability of the accommodation is required to be examined from the perspective of the landlord and that the tenant cannot dictate which premises the landlord should utilise for satisfying a *bona fide* requirement. This Court finds no error apparent in the aforesaid approach.

33. Significantly, the learned ARC has also considered the contention that the Respondent was a co-owner of certain other properties and has noticed the Respondent's case that her share in



those properties had already been relinquished in favour of her mother and brother. The conclusion that properties jointly owned with others cannot, merely on the basis of the Petitioners' assertion, be treated as premises solely available to the Respondent for satisfying her projected requirement, cannot be said to be an unreasonable conclusion on the material before the learned ARC.

34. The reliance placed upon *Abid-Ul-Islam* (supra) also does not advance the case of the Petitioners. The said judgment itself recognises that the tenant is required to place material of sufficient substance to raise a triable issue and that a mere assertion would not suffice.

35. The question, therefore, is not whether the Petitioners have raised objections, but whether the material placed by them was sufficient to disclose a genuine triable issue. The learned ARC has considered the objections and, for the reasons recorded in the Impugned Order, found that they remained unsupported by material sufficient to warrant leave to defend.

36. This Court is, therefore, unable to accept the submission that the learned ARC has either ignored the material placed by the Petitioners or proceeded solely on the basis of the averments contained in the Eviction Petition. The findings returned reflect consideration of the various objections raised by the Petitioners, including the alleged financial position of the Respondent, the Guest House, the properties stated to have been sold, and the numerous properties alleged to constitute alternative accommodation.

37. At this stage, what is sought by the Petitioners is essentially a different appreciation of the same material and a different conclusion as to the sufficiency of the objections raised by them. Such an exercise



would amount to appellate re-appreciation of the material, which is not permissible within the limited confines of the jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act.

38. In the facts of the present case, the reasoning adopted by the learned ARC is a plausible view based upon the material placed before it and this Court finds no perversity, material irregularity or error apparent on the face of the record which would warrant interference with the Impugned Order in exercise of the revisional jurisdiction.

39. In view thereof, the present Petition, being devoid of any merit, stands dismissed.

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

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 20, 2026/tk/jk