



2026:DHC:8531



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 28.09.2026**# **CNR No. DLHC011160802024**+ **RC.REV. 143/2025 & CM APPL. 26209/2025 (Stay)****PREM SINGH & ORS.****.....Petitioners**Through: **Mr. Puneet Kumar Saxena, Mr.
C.M. Verma and Mr. Pavneet
Singh, Advs.****versus****LAL CHAND & ORS.****.....Respondents**Through: **Counsel (Appearance not
given).****CORAM:****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition has been filed under Section 25-B(1) of the **Delhi Rent Control Act, 1958¹**, challenging the **Order dated 24.10.2024²**, passed by the **learned Administrative Civil Judge-cum-Additional Rent Controller, Central District, Tis Hazari Courts, Delhi³**, in **Eviction Petition being RC ARC 777/2018⁴** whereby the leave to defend application filed on behalf of the Petitioners herein was dismissed by the learned ARC and an Eviction Order was passed in favour of the Respondent herein with respect to **Property No.6072, measuring 85 Sq. Yards, Gali Ravidas, Nabi**

¹ DRC Act

² Impugned Order

³ learned ARC

⁴ Eviction Petition

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Karim, Paharganj, New Delhi-110055⁵.

SUBMISSIONS ON BEHALF OF THE PARTIES:

2. Learned counsel for the Petitioners confines his submissions to the following grounds of challenge.

3. *Firstly*, learned counsel submits that the Respondents have failed to establish either their ownership over the subject premises or the existence of any relationship of landlord and tenant between the parties. It is contended that the very foundation of the eviction proceedings is, therefore, absent.

4. *Secondly*, learned counsel submits that the documents relied upon by the Respondents in support of their asserted ownership are forged and fabricated and, consequently, could not have been relied upon for the purpose of non-suiting the Petitioners at the stage of consideration of their application for leave to defend.

5. *Thirdly*, learned counsel draws attention to an apparent discrepancy in the description of the subject premises. He submits that, while the premises are described as bearing No. 6072 in paragraph No. 1 of the eviction petition, the number is stated as 6070 in Column No. 8 thereof. According to him, the subject premises are, in fact, bearing No. 6072 and the aforesaid discrepancy goes to the identity and description of the premises sought to be recovered.

6. Lastly, learned counsel submits that the Respondents have sufficient and reasonably suitable alternate accommodation available and, consequently, the requirement pleaded in respect of the subject premises cannot be said to warrant an order of eviction. It is

⁵ Subject Premises



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contended that the learned ARC has failed to examine this aspect in its proper perspective and in the context of the material placed on record.

7. No other grounds have been urged by the learned counsel for the Petitioners.

8. **Per Contra**, learned counsel appearing on behalf of the Respondents supports the Impugned Order and submits that the challenge falls within the limited revisional jurisdiction exercisable by this Court under the proviso to Section 25-B(8) of the DRC Act. He submits that, while exercising such jurisdiction, this Court is not required to re-appreciate the evidence or undertake a fresh examination of the merits of the matter as though exercising appellate jurisdiction. It is contended that, in the absence of any jurisdictional error, material irregularity, perversity, patent illegality or other infirmity in the decision-making process warranting interference, the Impugned Order ought not to be disturbed.

ANALYSIS:

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

10. 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.

11. The contours of the aforesaid jurisdiction are well settled. The Hon'ble **Supreme Court**, in ***Sarla Ahuja v. United India Insurance***



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*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 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 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 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

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30

⁹ 2024:DHC:9322

¹⁰ 2025:DHC:11285



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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), 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



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jurisdiction may be warranted.

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

17. In order to appreciate the challenge raised by the Petitioner relating to the landlord-tenant relationship as well as the challenge relating to the ownership of the Respondent herein, it would be appropriate to examine the findings returned by the learned ARC. The relevant portion of the Impugned Order is reproduced hereinbelow:

“I. Ownership of the petitioner over the tenanted shop as well as existence of landlord-tenant relationship between the petitioner and the respondents

10. Petitioner averred that late Sh. Umrao was the owner of the property bearing no. 6072, Gali Ravidas Nabi Karim, Paharganj, New Delhi having purchased the same from erstwhile owner Gopi Krishna vide registered sale deed dated 07.05.1948. That late Sh. Umrao expired in 1954, leaving behind a Will dt. 27.12.1953, in favour of his wife, Smt. Pyaari. After the death of Smt. Pyaari, the property devolved upon her four sons, namely Shankar, Bishambhar, Bihari and Madan Lal and two daughters Daropdi and Chando. That the petitioner is the son of Sh. Shankar who expired in the year 1959, leaving behind two sons, namely Lalchand, the petitioner herein and Chain Sukh.

10.1 It is further averred by the petitioner that late Sh. Umrao had let out the ground floor, of property No.6072, Gali Ravidas, Nabi Karim, paharganj, New Delhi-55 to Late Sh. Natholi and after the death of Sh. Natholi, Sh. Amar Singh and Hari Singh became the tenants in the premises in question. That Amar Singh and Hari Singh, illegally and unlawfully constructed an unauthorized first and second floor upon the tenanted premises without the knowledge, consent and permission of the owners. That Sh. Amar Singh has also expired and after his death of respondent no.1,2 & 3 beings sons of late Sh. Amar Singh, stepped into his shoes as tenants. That at the time of initiating the tenancy the rent was fixed @ Rs. 6.25/- per month, which the tenants have not paid since last many years.

10.2 The respondent, on the other hand denied the ownership and landlordship of the petitioner and averred that there exist no relationship of landlord and tenant between the parties and respondents never paid any rent to the petitioners and even no notice of being owner was ever given by the petitioners to the

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respondents. Respondents have averred in para no. 5 of the respective affidavits that “*mother of the respondent no.1 was owner of the property after the death of Late Natholi who had become owner after the death of Nebo his mother, father of respondent no.1 and than same is in use and possession of us/the respondents and one Sushila, and one Hari Singh who have not been impleaded as a party however in the year 1972 the Custodian sent a notice that the property is enemy property and that government has acquired the property and now DDA custodian has become owner and that all occupants should pay rent to the DDA slum, and now same has been succeeded by the cusotodian of enemy property, who was the owner of the property*”.

10.3 Apparently the respondents have made only vague and bald assertions. It is nowhere clarified that how mother of respondent no. 1 was related to Natholi and Nebo and how they had become owners. It is also not clear as to who Sushila and Hari Om are and how come they are in possession of the suit premises. In para 14 of leave to defend affidavit the respondent has again contented that “in the entire petition it has been mentioned that Hero devi was the owner of after the death of Natholi who was grandmother and father of respondent no. 1 who left behind 4 sons namely Amar Chand, Amar Singh, Hari Singh and 3 daughters namely Munni devi, Shanti Devi, Shaymo devi however the said Ameer Chand has 3 sons Ramesh (now dead), Suresh (now dead), Vinod (now dead), 3 sons 1 daughter, Vicky” which once again is very vague and ambiguous and document has been placed on record to substantiate any of these averments. It is important to note here that it is also not the case of the respondent that the sale deed dated 07.05.1948 executed by Gopi Kishan in favour of Sh. Umrao is a forged and fabricated document.

10.4 Respondent claims to have become owner by adverse possession. Here would be pertinent to take note of well settled law in this regard. The Hon’ble Supreme Court in “**Brij Narayan Shukla (D) thr LR’s Vs. Sudesh Kumar @ Suresh Kumar (D) Thr. LR’s & Ors (2024 Livelaw (SC) 17) in C.A No. 7502/2012**, has held that the tenants cannot claim adverse possession against their landlord since their possession is permissive in nature. Similar view was taken by Hon’ble High Court of Delhi in RC Rev. No. 76/2022 (in para 6) in “**Ramesh Kumar Banga Vs. Kailash Makkar & Anrs** (decided on 21.04.2022) that a tenant cannot be said to be in adverse possession of the property. It is interesting to note that on one hand, the respondent is claiming ownership on the basis of adverse possession and on the other hand claiming that second floor is also part of their tenancy. The respondents are blowing hot and cold in same breath.

10.5 It is averred by the respondent in leave to defend affidavit that petitioner has not filed the correct site plan and petition is vague

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and ambiguous as it not clear that which portion petitioner wants to be evicted, some of the area in possession of others is also shown as part of property in plan. One Sushila is residing in one room of the plan shown, one Ajay is also in possession, Deepak @ Monu and Sharad, Chintu @ Umesh are also in possession not stated in the petition and without them the possession can be taken of the property as stated in site plan. The roof of the second floor is also forming part of the respondent's tenancy.

10.6 It is to be noted that no counter site plan has been filed by the respondent. Also no other document has been placed on record to establish the extent of tenancy. In the case titled as **R.K. Bhatnagar vs. Sushila Bhargava AIR 1987 Delhi 363**; the Hon'ble High Court of Delhi observed as under:-

“He has not filed any site plan wither to show that the site plan filed by the respondent- landlady is incorrect in any way. Hence, I see no reasons to doubt the veracity of the facts stated by the respondent in her affidavit. Likewise, I assume that the site plan filed by her showing the entire accommodation in her occupation is correct.”

10.7 Hence, this court is of the considered view that there arises no triable issue with respect to ownership of petitioner and landlord/tenant relationship between petitioner and respondent.”

18. The principal challenge raised by the Petitioners concerns the very foundation of the eviction proceedings, namely, the ownership of the Respondent and the existence of a landlord-tenant relationship. On this aspect, the learned ARC has not proceeded merely on the basis of a bare assertion of ownership. The Impugned Order records the pleaded chain of title commencing from the registered sale deed dated 07.05.1948 executed by Gopi Kishan in favour of Sh. Umrao, the subsequent devolution of the property, and the case set up by the Respondent regarding the induction of the predecessors of the Petitioners as tenants. In contrast, the defence set up by the Petitioners, as noticed by the learned ARC, is not supported by any cogent documentary material explaining the asserted title through Natholi, Nebo or the other persons referred to in the leave to defend affidavit. Thus, the conclusion of the learned ARC that no triable issue



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arose on ownership or landlord-tenant relationship is founded upon an appreciation of the competing pleadings and the material placed before it and cannot be characterised as perverse or unsupported by the record.

19. The plea that the documents relied upon by the Respondents are forged and fabricated does not appear to have been part of the defence raised by the Petitioners before the learned ARC. Neither the application seeking leave to defend nor the affidavit filed in support thereof, as placed before this Court, reflects any such challenge to the authenticity of the documents relied upon by the Respondents. The said contention has been urged for the first time in the present proceedings. This assumes significance in the context of the statutory scheme under Section 25B of the DRC Act, which requires the tenant seeking leave to defend to disclose the facts constituting the basis of the defence and the grounds on which the tenant contends that the landlord is not entitled to an order of eviction, so as to enable the learned ARC to determine whether any triable issue arises.

20. The plea of forgery is essentially a factual plea and cannot be examined in isolation without the factual foundation on which such an allegation is sought to be sustained. Had the Petitioners intended to rely upon such a defence, the same ought to have been specifically pleaded before the learned ARC, along with the particulars and material forming the basis of the challenge, so as to enable the learned ARC to examine whether the plea disclosed a triable issue. Having not raised such a defence before the learned ARC, the Petitioners cannot, at the revisional stage, seek an examination of a factual issue which did not arise for consideration before the learned ARC.

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21. This is particularly so since the Impugned Order records that the Petitioners had not disputed the registered Sale Deed dated 07.05.1948 on the ground of forgery or fabrication. Thus, there was no occasion before the learned ARC to adjudicate upon the authenticity of the said document. In the absence of the plea having been raised before the learned ARC and there being no material placed before this Court to substantiate the allegation, the said contention cannot be permitted to constitute a ground for interference with the Impugned Order.

22. The position is further fortified by the nature of the defence itself. As noticed by the learned ARC, the Petitioners, on the one hand, dispute the existence of the landlord-tenant relationship and assert ownership on the basis of adverse possession, while, on the other hand, they seek to assert that the second floor forms part of their tenancy. The learned ARC has considered this apparent inconsistency and has applied the principles laid down in **Brij Narayan Shukla** (supra) and **Ramesh Kumar Banga** (supra). The Petitioners have not demonstrated before this Court any error in the legal approach adopted by the learned ARC, much less one which would render its conclusion perverse or legally unsustainable.

23. As regards the discrepancy in the description of the subject premises, this Court is unable to discern any jurisdictional infirmity merely from the fact that the number 6070 appears in Column No. 8 of the Eviction Petition, whereas the premises are otherwise described as bearing No. 6072. It is pertinent to note that, except for the reference to Property No. 6070 in Column No. 8, the Eviction Petition, including the very first paragraph being Column 1 thereof, consistently describes the subject premises as Property No. 6072, Gali



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Ravidas, Nabi Karim, Paharganj. The Petitioners have not demonstrated that the said discrepancy resulted in any genuine uncertainty as to the identity of the premises in respect of which eviction was sought, nor have they shown that the learned ARC was unable to identify the premises forming the subject matter of the proceedings. The Impugned Order, in fact, proceeds throughout with reference to Property No. 6072, Gali Ravidas, Nabi Karim, Paharganj, and the Petitioners have not placed any material before this Court to establish that the discrepancy caused them any prejudice or materially impaired their defence. It is also material to note that the said objection was not raised before the learned ARC and has been urged before this Court for the first time. This Court has already held hereinabove that a factual plea which was not raised before the learned ARC cannot be introduced for the first time at the revisional stage so as to invite an examination of an issue which did not arise for consideration before the learned ARC. The objection, therefore, does not disclose any error apparent on the face of the record or any material irregularity warranting revisional interference.

24. Insofar as the contention of the Petitioners in relation to there being an alternative suitable accommodation is concerned, it would be apposite to peruse the relevant portion of the Impugned Order in that aspect. The relevant portion of the Impugned Order is reproduced hereinbelow:

“II. Bonafide requirement and suitable alternate accommodation.

11. It is averred by the petitioner that Smt. Pyari expired leaving behind four sons namely, Shankar(now deceased), Goma @ Bishamber (now deceased), Bihari @ Nanne(now deceased) and Madanlal (now deceased) and daughters namely Dropadi(now

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deceased) and Chandu(now deceased). That Sh. Shankar S/o Late Sh. Umrao expired in the year 1959 leaving behind two sons namely Lal Chand and Chainsukh. That Sh. Goma @ Bishamber S/o Late Sh. Umrao expired leaving behind five sons namely, Puran(now deceased), Gauri (now deceased), Trilok Chand (now deceased), Sukan (now deceased) and Jugal. Puran has expired leaving behind two sons namely, Mahesh and Ashish and three daughters namely, Rani, Nikki and Poonam. Trilok Chand expired leaving behind five sons namely, Dilip, Rajesh, Rakesh (now deceased), Sanjay and Sunil and three daughters namely, Rajjo, Indra and Rani. Sukan and Rakesh expired leaving behind no legal heirs. That Sh. Madanlal S/o Late Sh. Umrao expired leaving behind five sons namely, Bal Mukund, Bharat, Kailash, Manoj Kumar and Sanjay Kumar. That the petitioner no.1,2,3,4,5,6,7,17 & 18 with their families have been residing in property no.6070, measuring 85 sq. yds. Gali Ravidas, Nabi Karim, Paharganj, New Delhi-55 which consists of ground floor and first floor. At ground floor, four rooms with attached kitchen, bathroom and one common hall/drawing room are constructed and same structure comprising of four rooms with attached kitchen, bathroom and one common hall/drawing room are constructed at first floor.

That the family of petitioner no.1 consists of himself, three sons namely, Somnath, Dharam Prakash, and Ved Prakash and two daughters namely, Neetu and Mamta. One son Somnath and both the daughters are married. Both unmarried sons Dharam Prakash and Ved Prakash are residing separately from the petitioner no.1 due to lack of accommodation. However, the petitioner no.1 is in the use and occupation of two rooms at first floor of the property no.6070 with his son Somnath, who is married and his family consists of himself, his wife Sarita and two kids namely Shekhar and Sachin aged about 18 years and 14 years.

11.1 It is further averred by the petitioner that the family of the petitioner no.2 consists of himself, his wife Omwati, three daughters namely, Sonia, Monia and Taruna and one son namely Pawan. Two daughters Sonia and Monai have been married. The petitioner no.2 is in the use and occupation of one room at ground floor of the property no.6072, Gali Ravidas, Nabi Karim, Paharganj, New Delhi-110055 with his unmarried child Pawan and Taruna. That the petitioner no.3,4,5,6 & 7 who are unmarried are in the use and occupation of two rooms at ground floor of the property no.6072, Gali Ravidas, Nabi Karim, Paharganj, New Delhi-110055. That the family of petitioner no.17 consists of himself, his wife, and two daughters aged about 5 and 3 years. The petitioner no.17 with his family is in the use and occupation of one room at first floor of the property no. 6072, Gali Ravidas, Nabi Karim, Paharganj, New Delhi-110055.

That the family of petitioner no.18 consists of himself, his wife

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Geeta and two daughters namely Keerti and Komal and one son Raja. One daughter Keerti has been married. The petitioner no.18 with his unmarried children Komal and Raja is in the use and occupation of one room at first floor of the property no.6072, Gali Ravidas, Nabi Karim, Paharganj, New Delhi-110055. That due to lack of accommodation in the property no.6070, Gali Ravidas, Nabi Karim, Paharganj, New Delhi-110055, the petitioner no.1 & 2 with their families want to shift at the tenanted premises. That the petitioners are having no other alternative residential accommodation in their names except the tenanted premises.

11.2 On the other hand, it is averred by the respondent through his leave to defend application that the petitioner has more than sufficient accommodation available to him lying vacant as the petitioner in portion in his possession has shown less rooms and in property number 6070 itself there are about 20 rooms at ground floor there are 2 rooms set consisting of latrine, bath room, kitchen in each set, total 6 rooms, 3 kitchen, 3 bath rooms, one open space in kitchen of all; and at first floor also there is same the six rooms with 3 separate 2 rooms set, and separate kitchen, latrine, bath room etc. and similarly at second floor also there are 3 set of 2 rooms with separate latrine, bath room and kitchen and there is big open space at the centre. Not only this there are other properties like property number 8105 having 4 rooms 50 sq.yds at ground floor with latrine, bath room and kitchen and similarly at first floor there are 2 rooms, latrine, bath room kitchen and small open space in the said property. The petitioner also have possession of property number 6290 of about 60-70 sq yds consisting of 2 rooms, latrine, bath room, open space and 2 portions with one passage in between 4 rooms at another side. Triloki's family was residing there and now they have rented out the property to some tenants and have started residing in Karol Bagh address of which is not known to the respondents.

11.3 That one family is residing at A-33, Police Colony, Paharganj, Delhi in house/flat allotted by government of India, Delhi Police. The petitioners also have one plot in Nangloi of 100 Sq.Yds recently which has not been disclosed in the petition.

11.4 Respondent have further averred that petition as filed is not for the entire property and construction of the property is in such a manner that possession of half portion cannot be taken without the possession of portion in possession of other persons not made party and legal heirs of Late Natholi and portion is constructed at forth floor also wherein Ajay is residing with family in the property, hence petition is liable to be dismissed at the ground also. Once again it can be noted that the averments of respondent are very ambiguous and not substantiated by any document/photograph or site plan.

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11.5 That the property was constructed by the we/the respondents and their forefather since 1921 in their possession and permission was sought in that time from MCD. However, no document placed on record to substantiate this averment.

11.6 The respondent in his leave to defend has neither denied the bonafide need stated by the petitioner and the extent of family of the petitioner. In the case titled as **Sudesh Kumar Soni & Ors. Vs. Prabha Khanna & Ors. 153 (2008) DLT 652** it was observed that:-

“24. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.

25. Suitability has to be seen from the convenience of the landlord and his family members and on the basis of the circumstances including their profession, vocation, style of living, habits and background. Landlord is the best judge of his residential requirement”.

11.7 In **Shiv Sarup Gupta Vs Dr. Mahesh Chand Gupta AIR 1999 SC 2507, at pg-2512 in para 14 & 15**, the Hon'ble Supreme Court held that:-

“14. The availability of an alternate accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation, may have an adverse bearing on the finding as to bonafides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the Court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. Secondly, another principal ingredient of Clause (e) of Sub-section (1) of Section 14, which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available than the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternate residential accommodation though available is still of no

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consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternate accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come.”

11.8 In the case titled as *Sudesh Kumar Soni & Ors. Vs. Prabha Khanna & Ors.* 153 (2008) DLT 652 it was observed that:-

“24. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself. 25. Suitability has to be seen from the convenience of the landlord and his family members and on the basis of the circumstances including their profession, vocation, style of living, habits and background. Landlord is the best judge of his residential requirement”.

11.9 It is also pertinent to note that respondent has not denied the need stated by the petitioner and has just emphasized on the issue that petitioner has sufficient and suitable alternative accommodation to fulfill his need. Here it is important to quote the following observation made in “*Shri Satish Chand Vs. Girdhar Gopal Gupta* decided on 10.01.2023:-

“.....21. In the present petition there is no plea challenging the finding of the Trial Court with respect to the bona fide need of the landlord and his son addressed during the arguments. It is not disputed that Sh. Amit Gupta, son of the landlord is carrying on business and therefore the contention of the landlord that he needs the tenanted premises for his son's business stands sufficiently established on record.

22. As per Section 14(1)(e) of the DRC Act, the landlord/landlady, is required to prove his/her bona fide need for the tenanted premises as well as that he/she has no other reasonably suitable accommodation, to satisfy their requirement. However, recently the Supreme Court in *Abid-Ul-Islam (Supra)* has held that in an eviction petition filed under Section 14(1)(e) of the DRC Act, the

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Court is concerned only with the requirement of a bona fide need and that the plea of alternative accommodation is 'incidental one' 2023/DHC/000162 at best. The relevant paragraph of the said judgment read as under:

"29. Section 14(1)(e) deals with only the requirement of a bona fide purpose. The contention regarding alternative accommodation can at best be only an incidental one. Such a requirement has not been found to be incorrect by the High Court, though it is not even open to it to do so, in view of the limited jurisdiction which it was supposed to exercise. Therefore, the very basis upon which the revision was allowed is obviously wrong being contrary to the very provision contained in Section 14(1)(e) and Section 25B(8)."

The word 'incidental' as defined in the Oxford dictionary, sixth edition, refers to 'occurring as something casual or of secondary importance'. This would mean that availability of alternate accommodation should not become the decisive or pivotal factor in eviction proceedings. Therefore, in view of the law laid down by the Supreme Court in the aforesaid decision, once a landlord/landlady has sufficiently established his/her plea of bona fide need, the mere availability of alternate accommodation at the disposal of the landlord/landlady is but a secondary factor and not a primary one and therefore the same cannot become the sole basis for permitting the tenant to retain the tenanted accommodation to the peril of the landlord/landlady, particularly once the other factors entitling him/her to recovery the premises have been established. The landlord/landlady having duly disclosed the alternate available accommodation and having reasonably explained that the same are not adequately suitable for his/her requirement, the fact that tenant contends that the said alternate accommodation is suitable cannot detain the Court from passing the eviction order. The Court will reject the explanation offered by the landlord/landlady with respect to the unsuitability of the alternate accommodation only if it is perverse, however the Court need not substitute the preference for tenanted premises shown by landlord/landlady 2023/DHC/000162 with the dictates of the tenant. The preference shown by landlord/landlady for the possession of the tenanted premises vis-à-vis another alternative accommodation available to him/her cannot be rejected on the say-so of the tenant so as to set at naught the salutary purpose of Section 25B of the DRC Act. [The Technological Institute of Textiles and Sciences v. M/s Shree Nath Ji Developers, RC. REV. 174/2020]...."

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11.10 Therefore, it can be concluded that need of the petitioner is bonafide and there is no other reasonable suitable alternate accommodation is available with the petitioner.”

25. As regards the plea of *bona fide* requirement, it is pertinent to note that the Petitioners herein, in their leave to defend application, have not disputed the *bona fide* need pleaded by the Respondent or the extent of his family. The challenge is essentially premised on the assertion that sufficient alternative accommodation is available with the Respondent.

26. On the issue of availability of suitable alternative accommodation, the Petitioners have referred to various properties, including Property No. 6070, Property No. 6105, Property No. 6290, accommodation at A-33, Police Colony, Paharganj, and a plot at Nangloi. However, these assertions have not been supported by any document, photograph or site plan demonstrating the availability, nature or suitability of the alleged alternative accommodation. In this regard, this Court in ***Lalta Prasad Gupta v. Sita Ram***¹¹, has held that where a tenant seeks to controvert the landlord's requirement on the ground of availability of alternative accommodation, the tenant must plead the necessary particulars and place material in support thereof, including as to the suitability of such accommodation for the requirement pleaded. In the present case, no such material was placed before the learned ARC. The learned ARC, therefore, cannot be said to have failed to consider the said defence or to have returned a finding unsupported by the record. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

¹¹ 2017 SCC OnLine Del 13026



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“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 the 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. I say that it is essential to place such material before the Rent Controller because the purpose of trial, resulting from grant of leave to defend, is to prove the said pleas and if the tenant has nothing from which he can possibly prove the said pleas, the trial also will not result in the landlord being “disentitled from obtaining an order for recovery of possession of premises on the ground specified in Clause (e) of proviso to sub Section (1) of Section 14” of the Act, within the meaning of Section 25B(5) supra. This is not to say that the tenant should file fool proof documentary evidence at the stage of leave to defend. However there must be placed on record all the requisite particulars. The onus on the tenant, at the stage of seeking leave to defend, is thus somewhere in between fool proof documentary evidence and a totally vague, bereft of any particulars plea. Where, in between the said onus lies, depends on facts of each case.”

27. Thus, on a consideration of each of the grounds urged by the Petitioners, this Court finds that the learned ARC has dealt with the material pleas which went to the root of the application for leave to defend and has returned findings upon the pleadings and material before it.

28. The challenge raised before this Court, in substance, seeks a re-appreciation of the same material and a substitution of the view taken by the learned ARC with another possible view. Such an exercise is outside the permissible bounds of the revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act. No jurisdictional error, manifest illegality, material irregularity, perversity or failure to adjudicate a material plea has been demonstrated.

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29. For the reasons as stated above, this Court finds no merit in the present Petition. The present Petition is, accordingly, dismissed.

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

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 28, 2026/rk/ma

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