

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **RC. Revision No.566/2015 & C.M. No.23921/2015**

Decided on: 21st December, 2015

PURSHOTTAM DASS Petitioner
Through: Mr. P.K. Rawal and Mr. Tarun Agarwal,
Advocates.

Versus

M.L. VOHRA Respondents
Through: Counsel for the respondent (appearance
not given)

**CORAM:
HON'BLE MR. JUSTICE V.K. SHALI**

V.K. SHALI, J. (ORAL)

1. This is a revision petition filed by the petitioner against the order dated 31.07.2015, by virtue of which the learned Additional Rent Controller has granted leave to defend to the respondent to contest the Eviction Petition bearing No. 363/2013 in case titled as Purshottam Dass Vs. M.L. Vohra

2. I have heard Mr. P.K. Rawal, learned counsel for the petitioner. I have also gone through the record.

3. Briefly stated, the facts of the case are that the present petitioner has filed the Eviction Petition against the respondent under Section 14(1) (e) of the DRC Act in respect of one room on the third floor of property bearing No. D-10, Laxmi Nagar, Delhi-110092, which is stated to be let out on a monthly rent of Rs.1100/- p.m. The entire property No.D-10, Laxmi Nagar, Delhi-110092 is a commercial in nature except one shop situated on the ground floor. It has been alleged by the petitioner that his adopted daughter named Priyasha was to complete her graduation in the subject of Advertising from Janki Devi Memorial College, Delhi. Therefore, she wanted to start a business related to advertising. Thus, the petitioner requires the premises in question. It has been stated that petitioner has no other reasonably and suitable accommodation available to him in the entire property of D-10, Laxmi Nagar, Delhi.

4. The respondent filed his leave to defend and contested the petition. In the leave to defend application, the respondent pointed out that apart from D-10, Laxmi Nagar, the petitioner has three storeyed building comprising basement, ground to third floor on property bearing No. 294, Gagan Vihar, Delhi available to him. He has a shop bearing U-200, Ground Floor, Shakarpur, Delhi, which is stated to be in occupation of

Rajasthan Marble House. He is also the owner of a basement in Preet Vihar and a flat no. 288, first floor, Gagan Vihar, Delhi, have also been let out. All these accommodations are stated to be alternatively suitable accommodation available to the petitioner for the purpose of starting the business. In addition to this, it has been stated that one room in D-10, first floor, was also got vacated by the petitioner, which was again let out to one business enterprise by the name of M/s. Def Mart. It has been stated that in case the petitioner genuinely required the premises for his daughter, then the letting would not have been done. The respondent also admitted that he was inducted as a tenant by the erstwhile owner one Ramesh Chand Gupta. However, the present petitioner had refused to accept the rent from the respondent only with a view to seek his eviction, therefore the respondent was constrained to deposit the rent with the Rent Controller under Section 27 of the Delhi Rent Control Act. Some of the properties, which have been retained by the respondent have been admitted by the petitioner. He has admitted that his wife is the owner of two flats in property No. 294, Gagar Vihar, which are being used by him for residential purposes. Ownership of Shop No. U-200, Ground Floor, Shakarpur, is also admitted, however, it is denied that he is the owner of

basement in Preet Vihar. The petitioner has also denied the ownership of first floor of 288, Gagan Vihar, although, ownership of the basement is admitted to be in the name of the petitioner, which is stated to have been let out on a monthly rent of Rs. 15,000/-p.m.. The petitioner has also admitted that one room at D-10, Laxmi Nagar, which was vacated by the tenant, was let out to M/s. Def Mart on a monthly rent of Rs. 12,000/-p.m. number of years earlier and not last year as submitted by the respondent.

5. On the basis of the aforesaid rival contentions the learned ARC came to the conclusion that the petitioner had alternative suitable accommodation available to him at 294, Gagan Vihar, where admittedly his wife is the owner of two flats. The learned Rent Controller has observed that the family of the petitioner consists of only three persons namely the petitioner, his wife and one adopted daughter and he has not explained as to how he is utilizing two flats. On the basis of these facts, the learned ARC formed a view that the respondent should be given the leave to defend the Eviction Petition and accordingly granted the permission.

6. Feeling aggrieved, the present petition has been filed. I do not find anything improper or illegal in the reasoning given by the learned Rent

Controller for grant of permission to the respondent to contest the petition as the bonafides of the present petitioner are suspect. In the first instance, the petitioner ought to have disclosed the availability of other accommodations in the Eviction Petition itself, which he has failed to do so. On the contrary, it was left to the respondent-tenant to point out what accommodations are available with the petitioner, which when disclosed, have been explained by the petitioner to be either belonging to his wife or to himself, but occupied by the tenants. All these facts, apart from the concealment of material facts by the petitioner, also show that the petitioner has sufficient accommodation available to him, prima facie where his daughter can do the business. The bonafides of the petitioner to seek eviction of the present tenant can be only established after the petitioner enters into witness box and was subjected to cross-examination and thus, the leave to defend has been rightly given by the learned ARC.

7. For the aforesaid reasons, I feel that the present revision petition is without any merit and accordingly the same is dismissed.

V.K. SHALI, J.

DECEMBER 21, 2015 / n