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

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Date of decision: February 13, 2017

+ RC.REV. 17/2017 and CM No. 1943/2017 (stay)

SATYA NARAIN BANSAL Petitioner
Through Mr.J.K.Bhola and Mr. Rajeev
Aggarwal, Advocates.

Versus

RAJESH KUMAR GUPTA & ANR. Respondents
Through Ms.Rihi Gupta and Ms.Satvika Gupta,
Advocates.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. The present revision petition is filed under Section 25-B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the DRC Act) seeking to challenge the impugned eviction order dated 23.07.2016 passed by the Additional Rent Controller (hereinafter referred to as the ARC).
2. The respondents/landlords filed an eviction petition under Section 14(1)(e) of the DRC Act regarding Shop No.B-16/2 situated in the Shopping Centre No. II, Jhilmila Tahirpur Phase-I, now known as Vivek Vihar Phase I, Illaqa Shahdara, Delhi-110095. It was the case of the respondents that they are the absolute owners/landlords of the said shop. Respondent No. 2 is a widow and sister-in-law of respondent No.1. (The deceased husband of

respondent No.2 was the brother of respondent No.1). The respondents purchased the said property from their brother/brother-in-law vide agreement to sell, receipt and GPA dated 03.03.2000 based on which it is stated that the respondents became the absolute owners of the said shop. It is stated that after the purchase of the shop, the respondents intimated the petitioner about the sale and the petitioner attorned to the respondents and started paying rent for initial few months @ Rs. 150/- to the respondent. Thereafter he has stopped paying rent. It is urged that the respondents have a bona fide need for the shop as the same is required by respondent No. 2 as she needs to run a beauty parlour in order to earn his livelihood being a widow. She finds it difficult to make her ends meet. It is urged that respondent No. 2 has experience as a beautician and she is presently doing the said work by visiting clients' houses. The tenanted shop in question is situated in a commercial market and suitable for the aforesaid purpose of respondent No. 2. The petitioner was served with a legal notice dated 25.02.2013 but to no effect.

3. The petitioner filed his application seeking leave to defend. The sum and substance of the arguments raised by the petitioner in the leave to defend application were as follows:-

(i) That the respondents are not the owners of the shop. It is admitted that Sh. Suresh Kumar Gupta, the brother of respondent No. 1 and brother-in-law of respondent No. 2 was the owner of the shop who purchased the same in an auction from DDA through a perpetual lease deed dated 18.05.1971. He in fact purchased the full plot No. 16, Block B situated in the said area. He constructed four shops being shop No. 16/1, 16/2, 16/3 and 16/4. The petitioner was given shop No. 16/2 on a monthly rent of Rs. 150/-. It is

further stated that as Sh. Suresh Kumar Gupta was in dire need of funds in 1997. He struck a deal with the petitioner on 18.7.1997 and agreed to sell the tenanted shop for a sum of Rs.1,70,000/-. An advance/bayana amount of Rs.5,100/- was paid on 18.7.1997. It was duly received by the said Sh. Suresh Kumar Gupta. The said Suresh Kumar Gupta was to obtain permission/NOC from DDA and the balance payment was to be made then. It is urged that the deal was kept in limbo. After the demise of Sh. Suresh Kumar Gupta on 28.12.2012, the respondents have started harassing the petitioner. It is also stated that the petitioner was shocked to receive a legal notice dated 25.02.2013 from the respondents who, it is claimed, had no concern with the property. Hence, in May 2013, the petitioner filed a suit for specific performance against the LRs of Sh.Suresh Kumar Gupta, namely, Smt.Madhu Gupta and Mr.Amit Gupta. It is further stated that the petitioner has never attorned to the respondents and has never paid any rent to the respondents. It is also claimed that even otherwise, he has become the owner of the property by adverse possession.

(ii) It is claimed that the respondents are in possession of several shops and other properties. Reference in this context is made to the following properties:-

- a. Shops No. 16/3 and 16/4 is given to Bansal Mithaiwala but, it is urged, that the shops are under the control of the respondents being a joint venture.
- b. Shop No. 16/1 is used by the respondents for running their business of Real Estate.
- c. A-1, Main Road, Yojana Vihar, Delhi-110092.

- d. G-3, Ground Floor, Main Road before Petrol Pump, opposite High Tech. City and village Mehrauli, NH-24, Hapur Bypass, Ghaziabad, U.P.
 - e. Spacious Kothi which is available with respondent No.2 being B-367, Prashant Vihar, Delhi from where respondent No.2 is running her beauty parlour.
4. The respondents filed their reply. They have pointed out that the respondents are the owners by virtue of registered power of attorney and Will executed by Sh.Suresh Kumar Gupta. With regard to the properties mentioned by the petitioner, the respondents have stated as follows:-

Shops No. 16/1 belongs to respondent No.1 but due to paucity of space he has temporarily shifted to A-1, Main Road, Yojana Vihar, Delhi-110092 which is a rented property for which respondent No. 1 is paying rent.

Regarding Shop No.16/3 and 16/4 the allegations of the petitioner have been denied. Civil Suits regarding the said shops are said to be pending.

Regarding the premises being G-3, Ground Floor, Main Road before Petrol Pump opposite High Tech. City and village Mehrauli, NH-24, Hapur Bypass, Ghaziabad, U.P, it is stated that respondent No.1 had taken the same on rent from 01.05.2006 to 30.09.2008. Thereafter, the possession of the said shop has been handed back to the owners and the same is no longer with respondent No.1.

Regarding the spacious kothi, it is urged that this is used by respondent No. 2 which is built on 84 sq. yards and has only one bed room set on each floor comprising three floors. The ground floor is rented out by respondent No.2 to augment her meager income being a widow. It is denied that respondent No.2 is running a beauty parlour from the said premises

5. The ARC by the impugned order on the issue of landlord-tenant relationship rejected the reliance of the petitioner on the alleged agreement to sell dated 18.07.1997 pointing out that it does not specify with reasonable certainty the terms necessary for transfer of the tenanted premises by late Sh.Suresh Kumar Gupta. It also noted the fact that no steps were taken by the petitioner till the receipt of legal notice dated 25.02.2013 from the respondents which indisputably shows that the petitioner had no willingness to perform the alleged agreement to sell dated 18.07.1997. The plea of adverse possession raised by the petitioner was also rejected noting that the documents of the respondent are unregistered documents and held that the respondents can be said to be the owners of the tenanted premises relying upon various judgments of the Supreme Court.

6. On the list of properties stated by the petitioner claiming that these alternative accommodations are available with the respondents, the ARC regarding property No. B-16/1 noted that the same belongs to respondent No.1 who is running his business of real estate. It noted that it is not open to the tenant to dictate terms to the landlord as to where he or she should adjust himself/herself. The contentions of the petitioner in this regard were rejected. Regarding shops No. B-16/3 and B-16/4, the ARC noted that the respondents have explained that they are in illegal possession of Bansal Mithaiwala, against whom Smt.Manju and respondent No.2 has filed suits for possession in the Delhi High Court for recovery of the possession being suits numbers CS(OS) No. 1567/2013 and 1568/2014. Hence, respondents are not in possession of the said shops. Regarding shop No. A-1, Main Road, Yojana Vihar, Delhi, the ARC noted the explanation of the respondents that these are rented premises taken by respondent No. 1 for his business of real estate.

Regarding property No. G-3, Ground Floor, Main Road, before petrol pump, opposite High-Tech City and Village Mehrauli, NH-24, Hapur Bypass, Ghaziabad, U.P., the ARC noted that this place is located far off from the place where respondent No. 2 intends to open a beauty parlour. The petitioner cannot be permitted to dictate terms to the respondents as to from where she should run her beauty parlour. Regarding property No.B-367, Prashant Vihar, Delhi, it also noted that it is a residential property of respondent No. 2. Accordingly, the ARC rejected the submissions of the petitioner and dismissed the application for leave to defend.

7. I have heard the learned counsel for the petitioner. He has vehemently again argued that there is complete absence of relationship of landlord and tenant between the parties. He submits that the respondents claim to have bought the property in the year 2000 but did not take any step to exert their alleged title. It is only after the death of Sh.Suresh Kumar Gupta that in 2012, they have started asserting their alleged title to the property. It is urged that respondents have no title to the property. He also submits that the petitioner has also filed a suit for specific performance of the agreement to sell dated 18.07.1997 entered into with the original owner-Mr.Suresh Kr.Gupta. He relies upon the judgment of the Supreme Court in the case of ***Vijay Kumar Ahluwalia & Ors. vs. Bishan Chand Maheshwari & Anr., 2017 LawSuit (SC) 91*** to contend that in exactly identical facts and circumstances, the Supreme Court had granted leave to defend. He also reiterated about the various properties which he claims are available with the respondents which, he submits, have not been mentioned in the eviction petition but were finally revealed only when the respondents filed their reply

to the application for leave to defend filed by the petitioner. He submits that on these grounds, the petitioner should have been granted leave to defend.

8. Learned counsel for the respondents relies upon the judgment of the Supreme Court in the case of *Anil Bajaj & Anr. vs. Vinod Ahuja*, AIR 2014 SC 2294 to contend that a clear case of bona fide need is made out in favour of the respondents. She also relies upon the judgment of the Supreme Court in the case of *Maya Dvi v. Lalta Prasa*, AIR 2014 SC 1356 to contend that the court has accepted that prior to the judgment of the Supreme Court in the case of *Suraj Lamp & Industries Pvt. Ltd. through Director vs. State of Haryana & Anr.*, (2009) 7 SCC 363 where transactions have been completed through registered power of attorney, title would pass to the purchaser of the property. It is also pointed out by the learned counsel for the respondents that the petitioner has concealed material facts that he has other tenanted properties in his possession including one at E-6/2, Park Lane, Krishna Nagar, Delhi from where he is operating a shop under the name and style of Youth Gallery. It is further stated that the petitioner owns a big house in a posh colony in Surya Nagar and is in sound financial position.

9. I may first see the scope of the present petition. The Supreme Court in *Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta*, (1999) 6 SCC 222/(MANU/SC/0132/1999) described the revisional powers of this court as follows:-

“11..... The phraseology of the provision as reproduced hereinbefore provides an interesting reading placed in juxtaposition with the phraseology employed by the Legislature in drafting Section 115 of the CPC. Under the latter provision the exercise of revisional jurisdiction of the High Court is circumscribed by the subordinate court having committed one

of the three errors, namely (i) having exercised jurisdiction not vested in it by law, or (ii) having failed to exercise a jurisdiction so vested, or (iii) having exercised its jurisdiction with illegality or material irregularity. Under the proviso to Sub-section (8) of Section 25B, the expression governing the exercise of revisional jurisdiction by the High Court is 'for the purpose of satisfying if an order made by the Controller is according to law'. The revisional jurisdiction exercisable by the High Court under Section 25B(8) is not so limited as is under Section 115 C.P.C. 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 re-appraisal 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..."

10. Hence, this court is to test the order of the ARC to see whether it is according to law, and whether the conclusions are not wholly unreasonable.

11. Section 14(1)(e) of the DRC Act reads as follows:

“14. Protection of tenant against eviction.- (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by and court or Controller in favour of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:-

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(e) that the premises let for residential purpose are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and the landlord or such person has no other reasonably suitable residential accommodation.”

The above provisions would in view of the judgment of the Supreme Court in *Satyawati Sharma(dead) by LRs vs. Union of India & Anr., AIR 2008 SC 3148* apply to commercial premises also.

12. The essential ingredients which a landlord/respondent is required to show for the purpose of getting an eviction order for bona fide needs are (i) the respondent is the owner/landlord of the suit premises (ii) the suit premises are required bona fide by the landlord for himself and any of his family members dependent upon him. (iii) the landlord or such other family members has no other reasonable suitable accommodation.

13. In the present case the trial court declined to grant leave to defend to the petitioners. The parameters for granting leave to defend are well known.

14. The Supreme Court in *Precision Steel & Engineering Works and another vs. Prem Deva Niranjana Deva Tayal, AIR 1982 SC 1518* in para 22 held as follows:-

22. What then follows. The Controller has to confine himself indisputably to the condition prescribed for exercise of

jurisdiction in Sub-section (5) of Section 25B. In other words, he must confine himself to the affidavit filed by the tenant. If the affidavit discloses such facts-no proof is needed at the stage, which would disentitle the plaintiff from seeking possession, the mere disclosure of such facts must be held sufficient to grant 'leave because the statute says on disclosure of such facts the Controller shall grant leave'. It is difficult to be exhaustive as to what such facts could be but ordinarily when an action is brought under Section 14(1) proviso (e) of the Act whereby the landlord seeks to recover possession on the ground of bona fide personal requirement if the tenant alleges such facts as that the landlord has other accommodation in his possession; that the landlord has in his possession accommodation which is sufficient for him; that the conduct of the landlord discloses avarice for increasing rent by threatening eviction; that the landlord has been letting out some other premises at enhanced rent without any attempt at occupying the same or using it for himself; that the dependents of the landlord for whose benefit also possession is sought are not persons to whom in eye of law the landlord was bound to provide accommodation; that the past conduct of the landlord is such as would disentitle him to the relief of possession; that the landlord who claims possession for his personal requirement has not cared to approach the Court in person though he could have without the slightest inconvenience approached in person and with a view to shielding himself from cross-examination prosecutes litigation through an agent called a constituted attorney. These and several other relevant but inexhaustible facts when disclosed should ordinarily be deemed to be sufficient to grant leave.”

15. Similarly, this court in *Deepak Gupta vs. Sushma Aggarwal, 2013 202 DLT 121* held as follows:-

“24.From the mere reading of the afore mentioned illuminating observations of the Supreme Court in the case of Precision Steels (supra), it is apparent that the Controller has a statutory duty to grant the leave to defend if the affidavit discloses the facts which could raise suspicion on the

genuineness of the need of the landlord which can in effect disentitle the landlord from recovering the possession on the ground of bonafide requirement. The likelihood of success or the failure of the defence is not really determinative of the question as to grant or not grant of the leave to defend but the real question is tenability of the plea which may raise a suspicion on the need of the landlord which may if proved can also lead to disentitlement to the recovery of the possession. Thus, the plea raising a doubt in the mind of the Controller is sufficient to grant the leave. The Controller can also not record the findings on disputed question of the facts by preferring the one set of facts over and above the other. The merits of the pleas raised are not to be gone into at the time of the grant of the leave to defend by going into the complicated questions of fact. For making the enquiry, the affidavit filed by the tenant is helpful.

25. The views expressed by the Supreme Court in the case of Charan Dass (supra) and Precision Steel (supra) are holding the field and have been consistently followed by the Supreme Court till recently and also by this court from time to time. (kindly see the case of Inderjit Kaur vs. Nirpal Singh, : 2001 (1) R.C.R. 33 and Tarun Pahwa vs. Pradeep Makin, : 2013 (1) CLJ 801 Del.)”

16. The basic contention which has been vehemently argued by the learned counsel for the petitioner is absence of landlord-tenant relationship. The title of Sh.Suresh Kumar Gupta, the brother of respondent No.1 and brother-in-law of respondent No.2 is admitted. It is however sought to be urged that the documents relied upon by the said respondents, namely, agreement to sell, registered power of attorney, registered will do not confer any right, title or interest on the said respondents. It is further urged that in any case, Agreement to sell dated 18.07.1997 has been executed in favour of

the petitioner much earlier and hence, there can be no right that could have accrued in favour of the respondents.

17. The Supreme Court in the case of *Maya Devi v. Lalta Prasa (supra)* regarding a power of attorney sale held as follows:

“5. I am of the view that the Executing Court as well as High Court have committed a grave error in not properly appreciating the objections filed by the Appellant. We are in this case concerned with the question whether we must give credibility to the registered General Power of Attorney executed on 12.5.2006 between Nirmal Verma and the Appellant or on the alleged Agreement for Sale executed on 3.11.2003 between the Respondent and Prem Chand Verma, husband of Nirmal Verma. Further, we have to examine the manner in which Civil Suit No. 407 of 2007 was decreed without contest by Prem Chand Verma, husband of Nirmal Verma.

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9. In the above judgment, it has been stated that the observations made by the Court are not intended to in any way affect the validity of sale agreements and powers of attorney executed in genuine transactions. I am of the view that the Power of Attorney executed on 12.5.2006 in favour of the Appellant by the wife of Prem Chand Verma is a genuine transaction executed years before the judgment of this Court. Facts will clearly indicate that the Agreement for Sale dated 3.11.2003 was created by none other than the husband of Nirmal Verma, who had executed the General Power of Attorney and possession was handed over to the Appellant. That being the fact situation, in my view, the Objection filed by the Appellant under Order 21 Rule 58 in execution has to be allowed. I, therefore, hold that the Executing Court can execute the decree in Civil Suit No. 407 of 2007, but without proceeding against the property referred to in registered Power of Attorney dated 12.5.2006.

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11. I have perused the judgment of my learned and esteemed Brother Radhakrishnan, and I entirely and respectfully agree with his conclusion that the appeal deserves to be allowed. My learned Brother has succinctly analysed the sterling judgment in **Suraj Lamp and Industries Private Limited v. State of Haryana** (2009) 7 SCC 363, which has been rendered by a Three-Judge Bench of this Court. I completely concur with the view that since General Power of Attorney (GPA) in favour of the Appellant was executed and registered on 12.05.2006, it could not be impacted or affected by the *Suraj Lamp* dicta. Furthermore, a reading of the order of the Executing Court as well as of the High Court makes it palpably clear that both the Courts had applied the disqualification and illegality imposed upon GPAs by *Suraj Lamp*, without keeping in mind that the operation of that judgment was pointedly and poignantly prospective. This question has been dealt with by my esteemed Brother most comprehensively.”

18. Hence, the transaction affected by late Sh. Suresh Kumar Gupta in favour his brother and sister-in-law i.e. respondent No.2 via registered power of attorney, registered Will and agreement to sell, etc. would confer rights on the respondents.

19. On the issue of landlord tenant relationship, the landlord is not required to prove absolute ownership as required under the Transfer of Property Act. All that the landlord is required to show is that he is more than a tenant.

20. The Supreme Court in the case of *M/s Boorugu Mahadev & Sons & Anr. vs. Sirigiri Narasing Rao & Ors.*, (2016) 3 SCC 343 held as follows:-

“19. It is also now a settled principle of law that the concept of ownership in a landlord-tenant litigation governed by Rent control laws has to be distinguished from the one in a title suit.

Indeed, ownership is a relative term, the import whereof depends on the context in which it is used. In rent control legislation, the landlord can be said to be the owner if he is entitled in his own legal right, as distinguished from for and on behalf of someone else to evict the tenant and then to retain control, hold and use the premises for himself. What may suffice and hold good as proof of ownership in landlord-tenant litigation probably may or may not be enough to successfully sustain a claim for ownership in a title suit. (vide *Sheela & Ors. vs. Firm Prahlad Rai Prem Prakash*, (2002) 3 SCC 375).”

21. Similarly, this court in the case of *Puran Chand Aggarwal vs. Lekh Raj*, 210 (2014) DLT 131 held as follows:-

“34. It is settled law that in the context of the Act what appears to be the meaning of the term "owner" is that à the tenant the owner should be something more than the tenant. The position in law is that the "ownership" of the landlord for the purpose of maintaining a petition under Section 14(1)(e) of the Act is not required to be an absolute ownership of the property, and that it is sufficient if the landlord is a person who is collecting the rent on his own behalf. The imperfectness of the title of the premises can neither stand in the way of an eviction petition under Section 14(1)(e) of the Act, nor can the tenant be allowed to raise the plea of imperfect title or title not vesting in the landlord and that too when the tenant has been paying the rent to the landlord. The tenant inducted by landlord is estopped and cannot dispute the title of his landlord in view of the provisions of Section 116 of the Indian Evidence Act without there being any subsequent change in the situation. This aspect has been discussed in the following judgments:

- i. *Shanti Sharma vs. Smt. Ved Prabha*, AIR 1987 SC 2028
- ii. *Zahid Hussain thr. LRS vs. Aenul Haq Qureshi thr. LRS*, 2005 (1) RCR 323
- iii. *Ram Chander vs. Ram Pyari*, 109 (2004) DLT 388

- iv. Mukesh Kumar vs. Rishi Prakash, 174 (2010) DLT 64
- iv. Rajender Kumar Sharma & Ors. vs. Smt. Leela Wati & Ors., 155 (2008) DLT 383
- v. Meenakshi vs. Ramesh Khanna & Anr., 60 (1995) DLT 524
- vi. Tej Pal Gupta vs. Rattan Singh, 160 (2009) DLT 726
- vii. Kamla Rani & Ors. vs. Texmaco Ltd., 139 (2007) DLT 61
- ix. Keshar Lal H. Pardeshi vs. Vithal S. Patole, (2005) 10 SCC 249
- x. Ramesh Chand vs. Uganti Devi, 157 (2009) DLT 450
- xi. M.M. Quasim vs. Manohar Lal Sharma, (1981) 3 SCC 36
- xii. B.R. Anand vs. Prem Sagar, 2002 (1) RCR (Rent) 234
- xiii. D. Rani Puri vs. Chanan Lal, 65 (1997) DLT 313
- xiv. Shree Ram Sharma vs. Mohd. Sabr, 178 (2011) DLT 1
- xv. Bharat Bhushan Vij vs. Arti Teckchandani, 153 (2008) DLT 247
- xvi. Jiwan Lal vs. Gurdial Kaur & Ors., 57 (1995) DLT 262”

22. Further, the reliance of the petitioner on the agreement to sell dated 18.07.1997 is misplaced. It is an admitted fact that till May 2013, the petitioner took no steps to exert any right that may flow from the said agreement. 16 years after alleged execution of the agreement to sell, now a suit for specific performance is sought to be filed. It may not be appropriate to deal with the said contention of the petitioner further as it would prejudice the case of the petitioner for specific performance that is pending. However, prima facie the conduct of the petitioner inspires no confidence. Further, the way this document i.e. Agreement to Sell is worded shows lack of clarity. As rightly observed by the ARC the document is very vaguely worded. It

purports to give Rs.5,100/- in cash as an alleged advance for the sale consideration of Rs.1,70,000/- without specifying anything more. The ARC has rightly not accepted the said document.

23. Reliance of the learned counsel for the petitioner on the judgment of the Supreme Court in the case of ***Vijay Kumar Ahluwalia & Ors. vs. Bishan Chand Maheshwari & Anr.(supra)*** is misplaced. That was a case in which the owner of the shop died in 1974 leaving behind his widow. His widow also died issueless in 1994. 17 years after the death of the widow, one alleged landlord came forward claiming to be the adopted son of the landlords and filed an eviction petition. The claim was highly belated. It was in those facts and circumstances that the Supreme Court held that these facts were sufficient for grant of leave to defend to the tenant. There is no merit in the said contention of the learned counsel for the petitioner.

24. As far as the contention of availability of alternative accommodation to the respondents, the ARC has rightly noted that none of the properties alleged by the petitioner are available with the respondents. Shop No. 16/1 is with respondent No. 1 but the present eviction petition is filed for the bona fide requirement of respondent No.2. She has no property available with her except for the residential property B-367, Prashant Vihar, Delhi. She herself is residing in this property in Prashant Vihar. This property is built only on 84 sq. yards and is her only residential house. The said property cannot be said to be available to respondent No.2 for carrying on her business.

25. The Supreme Court in the case of ***Anil Bajaj & Anr. vs. Vinod Ahuja(supra)*** held as follows:-

“6. In the present case it is clear that while the landlord (Appellant No. 1) is carrying on his business from a shop

premise located in a narrow lane, the tenant is in occupation of the premises located on the main road which the landlord considers to be more suitable for his own business. The materials on record, in fact, disclose that the landlord had offered to the tenant the premises located in the narrow lane in exchange for the tenanted premises which offer was declined by the tenant. It is not the tenant's case that the landlord-Appellant No. 1 does not propose to utilize the tenanted premises from which eviction is sought for the purposes of his business. It is also not the tenant's case that the landlord proposes to rent out/keep vacant the tenanted premises after obtaining possession thereof or to use the same in any way inconsistent with the need of the landlord. What the tenant contends is that the landlord has several other shop houses from which he is carrying on different business and further that the landlord has other premises from where the business proposed from the tenanted premises can be effectively carried out. It would hardly require any reiteration of the settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilized by him for the purpose of his business. Also, the fact that the landlord is doing business from various other premises cannot foreclose his right to seek eviction from the tenanted premises so long as he intends to use the said tenanted premises for his own business. The grounds on which leave to defend was sought by the tenant and has been granted by the High Court runs counter to the fundamental principles governing the right of a tenant to contest the claim of bonafide requirement of the suit premises by the landlord under the Delhi Rent Control Act, 1958. Even assuming the assertions made by the tenant to be correct, the same do not

disclose any triable issue so as to entitle the tenant to grant of leave to defend.”

26. Hence, there are no grounds made out by the petitioner for this court to exercise its revisionary jurisdiction and interfere in the order passed by the ARC. There is no merit in the petition and the same is dismissed.

27. All pending applications also stand dismissed.

(JAYANT NATH)
JUDGE

FEBRUARY 13, 2017

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