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

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Pronounced on: 12.10.2017

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+ RC.REV. 456/2016 & CM Nos.34978-34980/2016

KAMLESH KUMAR JAIN & ORS.

..... Petitioner

Through Mr.Sanjeev Sindhwani, Sr. Advocate
with Mr.Jayant Mehta, Mr.Satyam Thareja and
Ms.Shradha Karol, Advocates

versus

CHANDRA KANTA AGARWAL

..... Respondent

Through Mr.Sudhanshu Batra, Senior Advocate
with Mr.Subhash Mishra and Mr.Shashwat
V.Dubey, Advocates

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. This revision petition is filed under section 25B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the 'DRC Act') seeking to impugn the eviction order dated 5.5.2016 passed by the Additional Rent Controller (hereinafter referred to as 'the ARC'). Respondent/landlord had filed an eviction petition under section 14(1)(e) of the DRC Act for property being part of First Floor, House No. 1872/P, Mahalaxmi Market, Chandni Chowk, Delhi. The tenancy is said to have been created vide Rent Agreement dated 11.2.1992. The present rate of rent is Rs.584.62 per month.

The respondent is the owner and landlady. The property was let out to the petitioners alongwith Shri Mahender Kumar Jain who expired on 7.9.2010.

2. It is the case of the respondent/landlord that the tenanted premises is required bonafide by the respondent for herself and for her son who is dependent upon her for accommodation. It is urged that the respondent is living in Kolkata at 1-A, Cornfield Road, Kolkata-700019 which is a joint tenanted accommodation with other family members of her in-laws. The family of the respondent comprises herself aged 77 years, her married son, daughter-in-law and two grand daughters aged 19 and 17 years. It is urged that the grand daughters are growing up and the respondent and the other family members want to shift to Delhi for higher education of the grand daughters as Delhi offers better higher professional education. The respondent has no commercial property in Kolkata and Delhi in her possession. Moreover, the respondent owns various commercial properties particularly in Chandni Chowk, Delhi which are under occupation of different tenants. The rent received from these properties in Delhi is the main source of income of the respondent and her son. The tenants are said to be taking undue advantage of the absence of the respondent and that the respondent and her son are finding it difficult to manage the properties. It is claimed that the tenants are inducting sub-tenants without permission of the respondent, are causing structural changes etc. Hence, the respondent and her son also want to shift to Delhi for better management and supervision of the properties of the respondent. The son of the respondent also wants to start his business of electrical items from the tenanted premises. The market where the tenanted shop is situated is famous for electrical business in Asia. Further, one married daughter of the respondent is also living in Delhi with

her family. It is also averred that the adjacent property being Shop No.1869 situated at the ground floor is also under the tenancy of A.M.Electric through its partner Shri Kamlesh Kumar Jain (petitioner No.1 herein) and is also a suitable premises for the respondent and her family members,

3. The ARC by the impugned order noted that all the properties which are available with the respondent in Delhi are under occupation of different tenants. It also came to the conclusion that there was nothing on record to show that the application for eviction filed by the respondent is guided by mala fide and has not been made with bona fide intentions. The impugned order concludes that the petitioners have failed to disclose facts which would disentitle the landlord/respondent from obtaining recovery of possession. Accordingly, the application for leave to defend filed by the petitioner was dismissed and an eviction order was passed against the petitioner and in favour of the respondent/landlord.

4. I have heard learned senior counsel for the parties.

5. Learned senior counsel for the petitioner has vehemently argued that the impugned order is erroneous. He has submitted as follows:

(i) The respondent has a large residence in Kolkata and a false allegation has been made that the respondent is a tenant. It is stated that respondent is not a tenant and as is evident from a reported judgment of the Calcutta High Court in the case of Ram Kumar Agarwalla and Others vs. State of West Bengal and Others, AIR 1963 Calcutta 534 from where it is apparent that the father-in-law of the respondent owned the plot of land. It is pleaded that the respondent lives in a palatial bungalow in Kolkata.

(ii) It is stated that the respondent has wrongly stated that she does not own business or properties in Kolkata. It is urged that the respondent is in

fact paying property taxes for commercial property in Kolkata including property at Sukriti 20, Bally Ganj, Circular Road, Kolkata which is a multi-storied building. It is also urged that the son of the respondent has his office in the said building. It is also stated that the son of the respondent is a director in various companies including Labillionair (P) Limited and Badrinath Estate Ltd. etc. Further, he has no experience of trade in electrical goods.

(iii) It is urged that the landlord has been harassing the petitioner since 1996. Way back in 1996, a legal notice was served on the petitioner. The object is to somehow get the tenant evicted.

(iv) Reference is also made to the various averments in the application for leave to defend filed by the petitioner where allegations have been made about letting and re-letting of premises by the respondent. It has been urged in the application for leave to defend by the petitioner that along with the petitioner on the second floor there are many other tenants. The respondent has obtained vacant possession of the second floor on the western side from the tenants and got covered the *verandah* and *chajja* and has raised construction on the second floor and has recently given possession of about 1300 sq.ft. to M/s.Pradeep Lights at a much higher rent. Similarly, on the first floor, the respondent is said to have covered the *verandah* and *chajja* on the western side and got the premises vacated from M/s. Beauty Films and let out the whole possession of the first floor except the tenanted premises to M/s. Pradeep Electricals. Similarly, it is claimed that the respondent has transferred rights in the property in Shop No.1870 in favour of Lajpat Rai Katar, property No.1873 in favour of Sangeeta Gupta and shop No.348 in Naya Katra to Sanjeev Kapoor and Shammi Kapoor. It is also the

case of the petitioner that the respondent owns 11 commercial shops in Naya Katra, Chandni Chowk, 13 shops in Krishana Market of Chandni Chowk, 4 commercial accommodations in Chandni Chowk etc.

6. Learned senior counsel for the respondent has vehemently reiterated the bonafide requirements of the respondents pointing out that the wish of the respondent/landlord and her family to shift is genuine. It is also urged that the son of the respondent is not doing any worthwhile business in Kolkata and the companies are running in losses. He has denied that the respondent is living in any palatial bungalow. In any case, it is urged that they would like to shift to Delhi for better education of the grand-daughters and for exercising greater control and supervision over the respective tenanted premises owned by the tenants. It is reiterated that none of the properties mentioned by the petitioner are or were vacant or available to the respondent. It is also denied that any of the properties was let-out or sold. It has been pointed out that in reply to the application for leave to defend, the respondent had clarified that in fact the tenants/petitioners had sub-let the tenanted premises and it was the tenants who handed over possession to M/s.Pradeep Lights after receiving huge amount from such sub-tenant without permission or consent of the respondent. However due to her absence from Delhi, the respondent was not in a position to take legal steps in this regard and the respondent had to surrender her right before the sub-tenant and the respondent was compelled to accept the sub-tenant as her tenant directly. No physical possession was given by the respondent but in fact it was the petitioner who had already illegally given possession to the sub-tenant Pradeep Lights. Similarly, the persons named by the petitioner i.e. Shri Lajpat Rai Katar, Ms.Sangeeta Gupta, Mr.Shammi Kapoor and Mr.Sanjeev

Kapoor were all sub-tenants who had illegally and un-authorisedly taken possession from the original tenants and were also not paying rent to the respondent. Hence, the respondent was forced to compromise with the said illegal sub-tenants. It is urged that due to the absence of the respondent and her family from Delhi, the tenants are taking undue advantage of the situation. It is also pleaded that the petitioners are themselves living in a palatial Bungalow in Delhi at V 38 Green Park Main, New Delhi and have various sources of income available to them.

7. 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 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..."

Hence, this court has to test the order of the ARC as to whether it is according to law.

8. 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:-

XXXXX

(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.”

In view of the judgment of the Supreme Court in the case of *Satyawati Sharma (dead) by LRs vs. Union of India & Anr., AIR 2008 SC 3148* the aforesaid provision is also now made applicable to commercial properties.

9. 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.

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

11. This court in the case of *Sarwan Dass Bange vs. Ram Prakash, MANU/DE/0204/2010* noted as follows:-

“7. The Controller has not discussed as to how the pleas raised by the respondent/tenant in the application for leave to defend are such which if established by adducing evidence would disentitle the petitioner/landlord of an order of eviction under Section 14(1)(e) of the Act. Ordinarily, when a tenant approaches an advocate for drafting a leave to defend application, the advocate, using his legal acumen would dispute each and every plea of the landlord in the eviction petition. However, merely because the tenant so disputes and controverts the pleas of the landlord does not imply that the provision of summary procedure introduced in the Act with respect to ground of eviction on the ground of requirement is to be set at naught. The Controller is required to sift/comb through the application for leave to defend and the affidavit filed therewith and to see whether the tenant has

given any facts/particulars which require to be established by evidence and which if established would disentitle the landlord from an order of eviction. The test is not of the tenant having controverted/denied the claim of the landlord and thus disputed questions of fact arising; the test is to examine the pleas of facts and then to determine the impact thereof.”

12. 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.)”

13. The Supreme Court in a recent judgment in ***Vijay Kumar Ahluwalia & Ors. vs. Bishan Chand Maheshwari & Anr. AIR 2017 SC 792*** held as follows:-

"21. It is a settled principle of law that while considering the grant of leave to contest the eviction proceedings under the Rent Laws, the Authority/Court is not expected to examine the merits and demerits of the grounds raised in the application for grant of leave to contest and if the Authority/Court finds that the grounds raised prima facie disclose a defence which, if accepted, may result in non-suiting the landlord from claiming eviction, the tenant is entitled to obtain leave to contest the eviction proceedings on merits. In this case, we find that the Appellants-tenant have made out such grounds and are, therefore, entitled for grant of leave to contest the eviction proceedings filed by Respondent No. 1 against them on merits."

I may hence test the findings recorded by the ARC on the touchstone of the requirement of the parameters stated above for determining as to whether the trial court rightly refused the leave to defend to the petitioners.

14. I may only at the outset mention that the petitioner after having filed his application for leave to defend has filed an additional affidavit before the ARC where additional averments have been made. The legal position in this regard is well-settled in terms of the judgment of the Supreme Court in ***Prithipal Singh vs. Satpal Singh (2010) 2 SCC 15*** where it was held that the tenant has only 15 days' time for filing the application for leave to defend. No additional grounds can be taken after lapse of the said period subject to certain exceptions. However, for the purpose of doing complete justice, the pleas of the petitioner have been considered.

15. As far as the issue of landlord-tenant relationship is concerned, there is no dispute raised by the petitioner regarding the same.

16. The crux of the arguments of the petitioner is that there is no bona fide requirement of the respondent to shift to Delhi. The argument about lack of bona fide has been based on two essential pleas, namely, the fact that the respondent allegedly owns properties in Kolkata and is carrying on business there and secondly on the allegation that the respondent has been changing tenants in the Delhi properties and has been indulging in the gambit of having properties evicted and let out or sold.

17. In my opinion, as far as the first aspect is concerned, the respondent denies owning any palatial bungalow in Kolkata. In any case, the availability of properties with the respondent and her son in Kolkata does not imply that the respondent cannot have a bona fide need to shift to Delhi. The basis on which the respondent wants to shift to Delhi are firstly, better education facilities for the grand-daughters secondly, for better management and control of the various properties owned by the respondent in Delhi which are all occupied by tenants who are taking undue advantage of the absence of the respondent from Delhi and thirdly, the need of the son to start a business in electrical trade from the tenanted premises. Admittedly, the tenanted premises are located in an area where trade in electrical fittings is carried out and the market is one of the largest in India. Further, other family members of the respondent are also based in Delhi including her married daughter. Hence, mere availability of properties in Kolkata as has been alleged cannot be a ground to come to a conclusion that the desire of the respondent to shift

to Delhi is not bona fide. There is no requirement that to shift to another town the landlord must be living in penury in the original town.

18. Reference in the above context may be had to the judgment of Supreme Court in ***Ragunath G. Panhale vs. M/s Chaganlal Sundarji & Co. (1999) 8 SCC 1*** wherein it was held as follows:-

“6. The word 'reasonable', in our view, connotes that the requirement or need is not fanciful or unreasonable. It cannot be a mere desire. The Word 'requirement' coupled with the word reasonable means that it must be something more than a mere desire but need not certainly be a compelling or absolute or dire necessity. Aitken v. Shaw (1933) S.L.T. 21; Novile v. Hordy, 90 L.J. Ch. 158. A reasonable and bona fide requirement is something in between a mere desire or wish on one hand and a compelling or dire or absolute necessity at the other end. It may be a need in presenti or within reasonable proximity in the future. The use of the word 'bonafide' is an additional requirement under Section 13(1)(g) and it means that the requirement must also be honest and not be tainted with any oblique motive.”

19. Reference may also be had to the said judgment of the Supreme Court in ***Anil Bajaj & Anr. vs. Vinod Ahuja AIR (2014) SC 2294***. That was a case where the landlord owned several properties in the vicinity of the tenanted premises. In those facts the Supreme Court accepted the plea of the landlord and 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.”

Hence, the landlord has not to show compelling or dire necessity. Merely because he owns some property does not mean he cannot have a bona fide need for seeking eviction of another property. In the present case, the alleged existence of properties in Kolkata with the respondent, does not help the case of the petitioner as these properties in her possession are not in Delhi where she seeks to shift.

20. As far as the need of the respondent to shift to Delhi is concerned it is firstly on account of better education facilities for her grand-daughters. It is

a matter of common knowledge that students from all over India tend to seek admission in colleges in Delhi for the purpose of better higher education. Hence, the projected requirement cannot be brushed aside.

The second aspect stated by the respondent pertains to better management of the various tenanted properties that the respondent has. All these properties are tenanted. The respondent has pointed out that different tenants are inducting sub-tenants illegally or are attempting to carry out changes in the property destroying valuable rights of the respondents. The petitioner himself admits that the respondents own various properties in Delhi. As per the petitioner, the respondents own 11 commercial shops in Naya K特拉, Chandni Chowk, 13 shops in Krishna Market, Chandni Chowk, 4 commercial accommodations in Chandni Chowk, etc. Respondents have repeatedly in the entire reply to the application for leave to defend pointed out the fate of some of these properties where the tenants have unauthorisedly inducted sub-tenants into the property or have caused other loss and damages to the properties by carrying out illegal alterations. On account of being away from Delhi, it has been pleaded that the respondent is unable to take effective steps as all these transactions take place clandestinely without knowledge of the respondent. Hence, a desire to shift to Delhi to be able to better manage and control the various properties owned by the respondent. On these two aspects there has been no worthwhile submission made by the petitioners.

A third aspect pleaded by the respondent is the desire of her son to start his business in electrical goods from the tenanted shop which is located in a

well-known market of India dealing in electrical goods. Keeping in view the location of the property, the requirement is reasonable.

21. In *Sarla Ahuja vs. United India Insurance Company Ltd. (1998) 8 SCC 119* the Supreme Court held as follows:-

“14. The crux of the ground envisaged in Clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. 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.”

22. Keeping in view the above legal position and in view of the above projected requirements stated by the landlord, in my opinion, a prima facie case is clearly made out and the ARC has rightly drawn a presumption that the requirement of the landlord is bona fide.

23. As far as the argument of the petitioner regarding the allegation that need of the respondent is not bona fide as the respondent has been indulging in renting or sale of properties, the allegation is a case of clever drafting. The respondent has clarified in her reply to the application for leave to defend that at no stage she has received vacant physical possession of any property from the tenants. In fact on account of lack of supervision on behalf of the

respondent, tenants have been illegally sub-letting the properties to various third parties. The respondent being away in Kolkata was unable to take steps to curb this illegality. The respondent was forced to compromise with the existing situation and accepted the sub-tenants or entered into compromise with the sub-tenant. There has been no direct physical transfer of vacant shops to the said tenants by the respondent. In fact it is urged that M/s. Pradeep Lights which has been repeatedly stressed upon by the petitioner as a case of transfer of possession was inducted as a sub-tenant by the respondent. Similarly, another allegation has been made by the petitioner claiming that for shop No.1870 the respondent has transferred rights in favour of one Shri Lajpat Rai Katar, property No.1873 in favour of Smt. Sangeeta Gupta and shop No.348 Naya Katar to Shri Sanjeev Kapoor and Shri Shammi Kapoor before filing of the petition. Respondents have clarified that all the three persons named by the petitioner were sub-tenants in unauthorised and illegal occupation of the respective portions. They were also not paying rents to the respondents and were only harassing the respondent by taking undue advantage of the absence of the respondent from Delhi. It is in these circumstances that the respondent it is pointed out was compelled to accept the fait accompli and accept the said sub-tenants as their tenants. The previous tenants had handed over physical possession of the shops to the sub-tenants and at no stage the respondents received possession of the shops. In the rejoinder, the petitioner except for a feeble denial has really not been able to explain anything further.

It is quite clear that the petitioners are deliberately making allegation without any material basis or without giving any material details. The plea raised by the petitioner that the respondent is indulging in letting and re-

letting or selling of the shops is a contention raised only for the sake of raising a dispute.

24. Regarding the contention of the petitioner that the son of the respondent does not have any experience in trading of electrical goods, such a plea can not be a ground to come to a conclusion that the requirement of the respondent is not bona fide. Reference may be had to the judgment of the Supreme Court in *Ram Babu Agarwal vs. Jay Kishan Das (2010) 1 SCC 164* where it was held as follows:-

“6. However, as regards the question of bona fide need, we find that the main ground for rejecting the landlord's petition for eviction was that in the petition the landlord had alleged that he required the premises for his son Giriraj who wanted to do footwear business in the premises in question. The High Court has held that since Giriraj has no experience in the footwear business and was only helping his father in the cloth business, hence there was no bona fide need.

7. We are of the opinion that a person can start a new business even if he has no experience in the new business. That does not mean that his claim for starting the new business must be rejected on the ground that it is a false claim. Many people start new businesses even if they do not have experience in the new business, and sometimes they are successful in the new business also. Hence, we are of the opinion that the High Court should have gone deeper into the question of bona fide need and not rejected it only on the ground that Giriraj has no experience in footwear business.”

25. This court in *Puran Chand Aggarwal v. Lekh Raj, 210 (2014) DLT 131* held as follows:

“26. As far as business is concerned, it is not necessary that the landlord must show some evidence that he has experience of

said business. That is not the requirement of law in order to file the eviction petition on the grounds of bonafide requirement.

27. The following judgments do help the case of the respondent:

Start new business/no experience required

(i) In Ram Babu Agarwal vs. Jay Kishan Das, MANU/SC/1719/2009MANU/SC/1719/2009: (2010) 1 SCC 164, it was observed that "A person can start a new business even if he has no experience in the new business that does not mean that his claim for starting new business must be rejected on the ground that it is a false claim. Many people start new businesses even if they do not have experience in the new business and sometimes they are successful in the new business also."

(ii) In Tarsem Singh vs. Gurvinder Singh, MANU/DE/2640/2010: 173 (2010) DLT 379, it was observed that "If the landlord wants to start his own business in the premises owned by him then by no stretch of imagination, it can be said that the requirement of the landlord for the premises is neither bonafide nor genuine."

(iii) In Balwant Singh Chowdhary & Anr. vs. Hindustan Petroleum Corporation Ltd., 2004 (1) RCR 487, it was held that "It is not necessary for the landlord to plead and prove the specific business he wants to set up, if the landlord wanted the premises for business purposes."

(iv) In Gurcharan Lal Kumar vs. Srimati Satyawati & Ors., MANU/DE/1078/2013: 2013 (2) RCR (Rent) 120 it was observed that "Merely because the exact nature of business has not been described would not take away their bonafide need to carry out a business (when admittedly both the sons are dependent upon petitioner for this need). It was observed that if the business need is not disclosed this would not wipe away the

bonafide need of the landlord as has been pressed under Section 14(1)(e) of the DRCA, 1958."

(v) In *Raj Kumar Khaitan & Ors. vs. Bibi Zubaida Khatun & Anr.*, MANU/SC/0411/1995: AIR 1995 SC 576, it was observed that "It was not necessary for the appellants-landlords to indicate the precise nature of the business which they intended to start in the premises. Even if the nature of business would have been indicated nobody would bind the landlords to start the same business in the premises after it was vacated."

Hence, the plea of the petitioner in this regard has no merit.

26. It is settled legal position that a landlord is the best judge of his requirement for business purposes and he has complete freedom in the matter. Reference may be had to the judgment of the Supreme Court in the case of *Ragavendra Kumar versus Firm Prem Machinery & Co. (2000) 1 SCC 679* wherein it was held as follows:-

"10. The learned Single Judge of the High Court while formulating the first substantial question of law proceeded on the basis that the plaintiff landlord admitted that there were a number of plots, shops and houses in his possession. We have been taken through the judgments of the courts below and we do not find any such admission. It is true that the plaintiff landlord in his evidence stated that there were a number of other shops and houses belonging to him but he made a categorical statement that his said houses and shops were not vacant and that the suit premises is suitable for his business purpose. It is a settled position of law that the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter. (See *Prativa Devi v. T.V. 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. Further, Supreme Court in the case of *Sait Nagjee Purushotham and Co. Ltd. Vs. Vimalabai Prabhulal and Ors.* 2005 (8) SCC 252 held as follows:

“5. Learned counsel for the appellant submitted that in fact this plea of either starting business or expanding it at Calicut is nothing but sham and it was also pointed out that some of the sons have multifarious activities and are already established in some other business and one of the sons i.e. respondent No. 9 had already gone to United States of America and he has settled there. Therefore, the need is not bona fide. We fail to appreciate that when two sons are there and if they want to expand their business at Calicut then it cannot be said that the need is a sham one. It is not possible for the landlords and their sons to wait till the disposal of the case. They have to do something in life and they cannot wait till the appellant is evicted from the premises in question. It is common experience that landlord tenant disputes in our country take long time and one cannot wait indefinitely for resolution of such litigation. If they want to expand their business, then it cannot be said that the need is not bona fide. It is alleged that one of the sons of the landlords has settled in the U.S.A. That does not detract from the fact that the other sons of landlords want to expand their business at Calicut. Indian economy is going global and it is not unlikely that prodigal sons can return back to mother land. He can always come back and start his business at Calicut. On this ground we cannot deny the eviction to the landlords.”

28. In *Prativa Devi v. T.V. Krishnan*, (1996) 5 SCC 353, it was held that the landlord is the best Judge of his requirement and Courts have no concern to dictate the landlord as to how and in what manner he should live. The bona fide personal need is a question of fact and should not be normally interfered with.

29. In *G.C. Kapoor Vs. Nand Kumar Bhasin*, AIR 2002 SC 200, the Supreme Court noted as follows:

“It is settled position of law that bonafide requirement means that requirement must be honest and not tainted with any oblique motive and is not a mere desire or wish. In Dattatraya Laxman Kamble v. Abdul Rasul Moulali Kotkunde and Anr.: [1999] 2 SCR 912, this Court while considering the bonafide need of the landlord was of the view that when a landlord says that he needs the building for his own occupation, he has to prove it but there is no warrant for 'presuming that his need is not bonafide'. It was also held that while deciding this question. Court would look into the broad aspects and if the Courts feels any doubt about bonafide requirement, it is for the landlord to clear such doubt.”

30. The petitioner has failed to show any valid grounds for this court in exercise of its revisionary powers to interfere in the order of eviction passed by the Additional Rent Controller. There is no merit in the present petition. The same is accordingly dismissed.

**(JAYANT NATH)
JUDGE**

OCTOBER 12, 2017

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