

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.Rev. 130/2018, CM APPL.13337-13338/2018 & CM APPL**
18572/2018

Judgment reserved on :28.08.2018

Date of decision : 27.09.2019

M/S JAINSON

.....Petitioner

Through: Ms. Neha Kapoor, Advocate
versus

SANJAY GUPTA

..... Respondent

Through: Mr. Rajat Aneja with Ms.
Sonali Chopra, Advocates.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioner vide this petition assails the impugned order dated 30.1.2018 of the Rent Controller, Patiala House Courts, New Delhi in RC ARC No. 39/2017 vide which the eviction petition filed by Sh. Sanjay Gupta, the petitioner thereof and arrayed as the respondent to the present petition seeking eviction of the tenant M/s Jainson i.e., the petitioner to the present petition, from the tenanted premises E-27/4 (Old Municipal No. 8250), , Gopinath Building, Middle Circle, Connaught Place, New Delhi admeasuring 550 Sq.ft shown in red in the site plan annexed to the petition on the ground of *bona fide* requirement under Section 14(1)(e) of the Delhi Rent Control Act, 1958, was allowed and the application filed by the tenant

i.e., the petitioner herein seeking leave to defend the eviction petition was declined with it however having been directed to the effect that the landlord would not be entitled to initiate execution proceedings for recovery of possession of the tenanted premises before the expiry of the period of six months from the date of the impugned order in terms of Section 14(7) of the Delhi Rent Control Act, 1958, as amended.

2. The facts put forth through the impugned order which are indicated to be not refuted even by the present petition are that the respondent to the present petition i.e., the petitioner of the eviction petition is the sole and absolute owner and landlord of the tenanted premises vide a perpetual lease deed dt. 04.01.1926 executed by the Chief Commissioner, Delhi which property was demised to M/s. L. Gopinath in the year 1964, which Joint Family Properties belonging to M/s. L. Gopinath were partitioned by way of a partition decree dated 2.11.1964 vide which the petitioner of the eviction petition i.e. the respondent herein is the undisputed owner of the tenanted premises let out undisputedly to the respondent of the eviction petition, i.e., the petitioner herein.

3. The petitioner of the present petition, i.e., the respondent of the eviction petition, has also not denied the existence of the relationship of landlord and tenant between, i.e. the respondent herein and the petitioner herein qua the suit premises.

4. The petitioner of the eviction petition has contended that he and his wife had been residing in the United States of America since 1989 and have done various menial low paying jobs all through their lives to sustain themselves and their two children and the petitioner of the

eviction petition is a senior citizen and was aged about 60 years at the time of institution of the same as instituted on 3.11.2017 and was required to travel back to India frequently to manage the affairs of his properties including various pending litigations and also to take care of the well being of his aged parents who are above 80 years of age and suffer from various ailments. The two children of the respondent herein who are stated to have grown up and are pursuing their higher education and the petitioner of the eviction petition i.e. the respondent herein has thus submitted that his wife is also required to come and reside in India as she cannot continue to live alone in America.

5. *Inter alia*, the petitioner of the eviction petition contended that in the end of September, 2017, M/s Yuvi Restaurants Pvt. Ltd, a leading company in food and beverages and hospitality industry agreed to take on lease the vacant portion of the suit property from the petitioner for setting up and running a restaurant and that in October, 2017, on completion of all the discussions, negotiations and deliberations, the petitioner let out the vacant portion of the said property to M/s. Yuvi Restaurants Pvt. Ltd and that the petitioner has further submitted that the development of the property for the launch of the restaurant by M/s. Yuvi Restaurants Pvt. Ltd. is underway and the restaurant was scheduled to be functional from 15.12.2017.

6. The petitioner has further submitted that his wife Mrs. Sujata Gupta is well acquainted and inclined towards the art of baking and that the wife of the petitioner has completed many courses in Baking and Patisserie in America and has managed the bakery section of one of the leading supermarkets in America and that due to the lack of

financial stability and other prevailing circumstances, the wife of the petitioner had never been able to explore the possibility of having her own business and running her own bakery. The petitioner of the eviction petition submitted that M/s. Yuvi Hospitality Pvt. Ltd. gave the wife of the petitioner an offer to operate, manage and run the bakery and dessert section of the upcoming restaurant and that the said offer made by the said company to the wife of the petitioner was on a commission basis and subject to various terms and conditions which have been reduced into writing in the letter of intent dated 15.10.2017 and that the said letter was based on the precondition that the wife of the petitioner has to arrange space for her own separate kitchen and bar deserts/display in the proximity to the restaurant.

7. *Inter alia* the petitioner of the eviction petition submitted that the said condition was based on the prevalent market practice of reserving the rights of admission into the kitchen of a restaurant to employees only in order to maintain levels of hygiene, cleanliness and safety. The petitioner of the eviction petition has further submitted that in view of the offer received by the wife of the petitioner from M/s Yuvi Restaurants Pvt. Ltd., the wife of the petitioner would be able to utilize her skill and knowledge of baking and comfortably reside with her husband in India while earning a livelihood and also living her dream of having her own bakery. It was submitted through the eviction petition that the wife of the petitioner would thereafter be able to offer desserts prepared by her as a part of the menu of the restaurant on a commission basis and that the wife of petitioner would also be able to sell her products to a large and established customer base of

the restaurant without having to incur expenses on advertising and marketing and thus accepting the offer would enable the wife of the petitioner to reside in India along with her husband and at the same time earn a livelihood and sustain herself. It was also submitted through the eviction petition that the petitioner required the tenanted premises under the use and occupation of the respondent for his own bona fide use in order to get the kitchen and dessert bar set up for his wife.

8. It was also averred in the eviction petition to the effect that there was no alternate, suitable and similarly placed premises available for the petitioner thereof as the said kitchen and the dessert bar and display have to be located in close proximity to the restaurant being developed by M/s Yuvi Restaurants Pvt. Ltd. The petitioner has reiterated that the tenanted premises was situated within the open courtyard and right adjacent to the vacant portion where the restaurant was being developed by M/s Yuvi Restaurants Pvt. Ltd.

9. It was contended by the petitioner of the eviction petition before the learned trial Court that the tenant runs an extensive showroom consisting of three floors at E-9, Connaught Place, New Delhi -110001 selling readymade garments and fabrics and also the same provides the facility of customized tailoring to its customers and that the respondent used the tenanted premises to run a *Darzi Khana* (tailoring shop) and uses it to stitch custom made-to-size garments, as per orders which are booked.

10. The tenant i.e. the petitioner herein through the application under Section 25 B (2) of the DRC Act, 1958 (as amended) had sought

leave to defend the eviction petition submitting *inter alia* to the effect that the petitioner of the eviction petition was the owner of several other properties and has much more than vacant portion in the property admittedly let out in the month of September, 2017 itself and that the petitioner could thus not have filed the petition for additional accommodation.

11. It was also submitted by the respondent i.e. the petitioner to the eviction petition that the petitioner thereof had no bona fide requirement as the adjacent property had been let out in the recent past and that was an indication that the intention of the petitioner was mala fide and he had under the garb of the eviction petition sought to evict the respondent from the premises in question and that the petition was not maintainable under Section 14 (1)(e) of the DRC Act, 1958 (as amended) and the petitioner of the eviction petition had contended that he required the tenanted premises because of the alleged retirement of his wife and that his wife was admittedly an overseas citizen and hardly visits India and thus there was no question of her running a business. The respondent i.e. the tenant to the eviction petition has further submitted that the story had been cooked up by the petitioner to get the premises vacated from her for letting them out to M/s Yuvi Restaurant Pvt. Ltd.

12. The tenant i.e. the respondent to the eviction petition further submitted that the petitioner was in possession of suitable alternative accommodation and that the eviction petition was thus liable to be dismissed as the petitioner thereof had concealed the other

accommodation available with him. The respondent thus submitted that there were several triable issues that arose in the matter.

13. The tenant through his rejoinder to the reply of the landlord reiterated that the petitioner of the eviction petition had no bonafide requirement of the premises in suit and that it being a heritage building, no development or redevelopment or engineering operation or additions and alterations, repairs etc. could be allowed by the NDMC. The tenant also refuted the existence of any document in favour of the wife of the petitioner of the eviction petition in relation to her having been called upon by the restaurant for running a bakery and the tenant also denied that the wife of the landlord had even come to India. The tenant also through the rejoinder to the leave to defend submitted that the petitioner of the eviction petition was an overseas citizen with property worth multi-crores of rupees and had recently let out part portion of the property on a very huge rental value and it thus could not be believed that his wife who is also an overseas citizen would have to earn a livelihood from the suit premises by making desserts for a restaurant.

14. *Inter alia* the tenant submitted that the existence of an additional vacant accommodation in property bearing no.E-44, Connaught Place, New Delhi has been admitted by the petitioner of the eviction petition and the same is adjoining the property in question and that furthermore, the petitioner of the eviction petition had also let out one shop bearing No.E-22 adjoining the property in question on a huge rent of more than Rs.1 lakh p.m. to M. Ram and that the petitioner of the eviction petition had concealed the fact of filing the

eviction petition against adjoining properties bearing Shop Nos.E-25 & 26 against the respective tenants and thus it was apparent that the intention of the petitioner of the eviction petition was only to get the property vacated from the tenants and to let out the same to new tenants at higher rent.

15. The tenant further submitted that the apparent intention of the petitioner of the eviction petition by filing the petition was clear that the petitioner wanted to let out the hall of the property to M/s Yuvi Restaurants Pvt. Ltd. and thus the story had been invented, that the landlord wanted the eviction of the premises in question for the running of a bakery by his wife on commission basis.

16. The petitioner of the eviction petition i.e. the respondent herein denied that any new construction work was being undertaken by the development of the restaurant and rather submitted that there were only renovations and repairs of the existing structure that were being carried out and that the open courtyard would be used for the outdoor seating and the existing covered area was being repaired/renovated for the purposes of indoor seating area, kitchen and washrooms and that the permissions/NOCs which were required for carrying on the repair and renovation works at the said property for setting up the restaurant had already been obtained from various Government Authorities such as the New Delhi Municipal Corporation, Heritage Conservation Committee etc. along with the power electricity supply and water connections required for smooth running of the said restaurant.

17. The petitioner of the eviction petition had also explained that though he is the owner of the property bearing no.E-22 to E-27 & E-

44 to E-48, E Block Connaught Place, New Delhi except for the property bearing number E-22 and a part of E-44 which was vacant for many years and which was not suitable for setting up an independent kitchen and dessert bar and display due to its location and distance from the proposed restaurant, all the said properties were in the possession and occupation of statutory tenants and tenants who were paying a monthly rental of less than Rs. 3,500/- and were as such protected under the Delhi Rent Control Act, 1958. (as amended). The petitioner of the eviction petition had thus contended that there was no alternative accommodation and similarly placed premises available with the petitioner for use by his wife as the said kitchen and the dessert bar and display have to be located in close proximity to the restaurant being developed by M/s Yuvi Restaurants Pvt. Ltd.

18. The learned Rent Controller placing reliance on the verdict of the Hon'ble Supreme Court in ***Deena Nath Vs. Pooran Lal (2001) 5 SCC 705*** has relied upon the observations of the Hon'ble Supreme Court therein to the effect:

*“The Legislature in enacting the provision has taken ample care to avoid any arbitrary or whimsical action of a landlord to evict his tenant. The statutory mandate is that there must be first a requirement by the landlord which means that it is not a mere whim or a fanciful desire by him; further, such requirement must be bonafide which is intended to avoid the mere whim or desire. **The 'bonafide requirement' must be In praesenti and must be manifested in actual need which would evidence the Court that it Is not a mere fanciful or whimsical desire.** The legislative intent is made further clear by making the provision that the landlord has no other reasonably*

suitable residential accommodation of his own in his occupation in the city or town concerned. This requirement lays stress that the need is pressing and there is no reasonably suitable alternative for the landlord but to get the tenant evicted from the accommodation. Similar statutory provision is made in sub-section (e) of Section 12(1) of the Act in respect of accommodation let for residential purposes. Thus, the legislative mandate being clear and unambiguous, the Court is duty-bound to examine not merely the requirement of the landlord as pleaded in the eviction petition but also whether any other reasonably suitable non-residential accommodation in his occupation in the city/town is available. The judgment/order of the court/authority for eviction of a tenant which does not show that the court/authority has applied its mind to these statutory requirements cannot be sustained and the superior court will be justified in upsetting such judgment/order in appeal/second appeal/revision. Bonafide requirement, on a first look, appears to be a question of fact. But in recording a finding on the question the court has to bear in mind the statutory mandate incorporated in Section 12(1)(f). If it is found that the court has not applied the statutory provisions to the evidence on record in its proper perspective then the finding regarding bonafide requirement would cease to be a mere finding of fact, for such erroneous finding illegally arrived at would vitiate the entire judgment."

and thus the learned Rent Controller held that the concept of bonafide need or genuine requirement needs a practical approach instructed by the realities of life and that it was no concern of the Courts to dictate to the landlord how, and in what manner, he should live or to make any prescription for him.

19. The learned Rent Controller observed in relation to the aspect of bona fide requirement of the respondent herein i.e. the petitioner of the eviction petition to the effect that the bona fide requirement of the tenanted premises to enable his wife to start her own business of bakery and dessert bar was duly proved whilst observing *inter alia* to the effect that the petitioner of the eviction petition had placed on record the several documents in the form of various permissions / NOCs taken by the petitioner of the eviction petition for carrying on the repair and renovation work at the said property from various government authorities and that the petitioner of the eviction petition had also placed on record the sanction letter for electricity and water connection for the restaurant being developed in the adjacent property as well as the photographs showing the repair/ renovation work in the portion adjoining the tenanted premises to enable M/s. Yuvi Restaurant Pvt. Ltd. to carry on its business from the said portion.

20. The learned Rent Controller vide the impugned order further observed to the effect that it had been stated by the tenant that as the landlord had stated that that his wife is an overseas citizen who hardly visits India and, therefore the question of her running a business did not arise which was repelled by the learned Rent Controller vide the impugned order observing to the effect that it had been clearly stated by the petitioner of the eviction petition that he was a senior citizen and was now required to visit India in order to look after his properties as well as to take care of his aged parents and thus wanted to shift to India alongwith his wife and that the contention of the tenant that the wife of the petitioner of the eviction petition is an overseas citizen was

no bar for her to shift to India to settle herein with her husband and that if the petitioner of the eviction petition intended to shift back to India, it was but natural that the petitioner and his wife would be required to start their own business in order to earn their livelihood.

21. The learned Rent Controller also placed reliance on the letter of intent dated 15.10.2017 issued by M/s. Yuvi Restaurant Pvt. Ltd. to the wife of petitioner which clearly showed that a business opportunity had been offered to the wife of petitioner for starting her own bakery / dessert business on commission basis but she was required to arrange a place, which place was available with the petitioner herein and *inter alia* it was observed by the learned Rent Controller that the wife of the petitioner of the eviction petition was within her right to start her own independent business of bakery and dessert after shifting back to India so that she could earn livelihood for herself and for her family and the adjoining portion/ open courtyard was let out to M/s. Yuvi Restaurant Pvt. Ltd. who had given the said business opportunity to the wife of petitioner in as much as the tenanted portion which was adjoining to the premises under the occupation of M/s. Yuvi Restaurants Pvt. Ltd. was the best suitable accommodation for the wife of petitioner to start her business of dessert and bakery and that the tenant could not thus dictate the terms as to whether the wife of petitioner should shift back to India or should start her own independent business and the petitioner of the eviction petition being the landlord had the sole discretion to decide his bonafide requirement and thus it was held by the learned Rent Controller that the bona fide requirement of the

tenanted premises by the petitioner to enable his wife to start her own business of bakery and dessert stands duly proved.

22. The impugned order of the learned Rent Controller also held to the effect that since it was not disputed that the tenanted premises under the occupation of the tenant i.e. the petitioner herein was situated just adjoining to the portion in occupation of M/s. Yuvi Restaurant Pvt. Ltd. thus it would be most convenient for the wife of the petitioner to carry on her business of dessert and bakery with the restaurant in proximity despite the contention that was raised by the tenant that a portion of the property bearing no.E-44, Block-E, CP belonged to the petitioner of the eviction petition was vacant qua which, it was observed by the learned Rent Controller that the said property bearing no.E-44 was at a distance from the proposed restaurant and thus would not be suitable for the wife of the petitioner/landlord for starting her business of bakery and desserts and that thus the tenant had failed to prove that there was any alternative suitable accommodation available with the petitioner in comparison to the tenanted premises to enable his wife to start her independent business of bakery and dessert business. The learned Rent Controller also rejected the contention raised by the tenant that the sole purpose of getting the tenanted premises vacated was that the entire premises was let out to M/s Yuvi Restaurant Pvt. Ltd. and not for the wife of the petitioner and it was held by the learned Rent Controller that if that had been the case, the letter of intent would not have been issued by M/s Yuvi Restaurant Pvt. Ltd. to the wife of the petitioner to start her business on commission basis and that thus the petitioner of the

eviction petition had successfully proved the non-availability of alternative suitable accommodation with him for use of his wife for her bakery and dessert business and it was held vide the impugned order that the tenant had failed to raise any triable issues, which required evidence to be led and that the petitioner of the eviction petition on the other hand had established his bona fide requirement regarding the tenanted premises.

23. During the course of submissions that were made in the present petition, the present petitioner i.e. the tenant placed on record the copy of the eviction petition no.34/10 filed by the very same landlord against M/s Jakki Mull & Sons & Ors. under Section 14(1)(e) of the DRC Act, 1958 (as amended) seeking recovery of E-27/1-3, CP, New Delhi with the carpet area of over 2500 sq. ft. approximately which eviction petition is dated 19.11.2010 in which it had been stated in relation to the wife of the landlord that she is a graduate and in order to provide financial support to the petitioner in USA, she had taken up employment in a local public school system as a special education assistant in the field of deaf and hard of hearing school going children of various ages to communicate in school environment and due to the nature of her job she was unable to advance her career opportunity beyond the current level of her employment where she was paid, upon hourly basis and due to over straining at work she has developed carpal syndrome (over use syndrome) in both her working and it has forced her to reduce her working time, which has thus diminished her income and due to diminished income, it had become difficult for her to support and meet the expenses of her family and it had thus become

imperative for her to return to India and that the objective/purpose of staying in USA had been achieved with the medical care and education for their son and thus the wife of the petitioner along with her family members now wants her to return to India for which she requires the subject premises to start her business/venture along with the petitioner/landlord.

24. It is essential to observe that the copy of the proceedings dated 16.04.2018 bearing RC No.5434/2010 of the case titled ***Sanjay Gupta Vs. Jakki Mull*** then was produced on behalf of the respondent herein to submit that the said petition had already been withdrawn and it had been observed therein that the bona fide requirements of the wife of the petitioner as pleaded in that petition did not exist and another petition had been filed under Section 14(1)(e) of the DRC Act, 1958 (as amended). The learned Rent Control also chose not to make any observation on an application under Section 340 of the Cr. PC, 1973 therein.

25. The tenant also placed on record the copy of the lease deed dated 19.04.2017 executed between the respondent herein and M/s Yuvi Restaurant Pvt. Ltd. to contend that as late as 25.04.2017, the premises measuring an area about 9000 sq. ft. on the ground floor of property bearing No.27/4, Block-E, Middle Circle, Connaught Place had been let out by the landlord to the said M/s Yuvi Restaurant Pvt. Ltd. which indicated that the petitioner of the eviction petition only wanted to let out the entire building for the same to the restaurant and that the needs of the petitioner as stated for the running of a bakery by his wife were not at all bona fide.

26. Reliance was placed on behalf of the tenant on the verdict of this Court in ***OP Gupta vs. RK Sharma 2001 IV AD (DELHI) 688*** to contend that where the landlord had not disclosed the other available alternative accommodation, the bona fides of the landlord were not established. Reliance was also placed by the petitioner of the present petition / tenant on the verdict of this Court in ***Davinder Pal Singh & Ors. Vs. M/s Pritam Prakash Dawar & Sons (HUF)*** in RCR No.222/2013 and ***Krishan Kumar Bhasin & Ors. Vs. M/s Pritam Prakash Dawar & Sons (HUF)*** in RCR NO.223/2013, disposed of vide verdict dated 06.11.2013 to contend that the present case was a case of additional accommodation that was stated to be required by the landlord and not that of alternative reasonably suitable accommodation and thus in such a situation, the Court should ordinarily grant the leave to defend so that the question of genuineness of need can be thrashed out completely in the trial. Reliance was placed on the observations in para 29 of the said verdict, which reads to the effect:

“29. It is well settled principle of law by the Apex Court as well as this Court in catena of cases that in the cases where the eviction is sought by the landlord on the ground of the bonafide need and in case after seeing the material available on the record, it is found that the case in hand is essentially of the additional accommodation rather than having no alternative reasonably suitable accommodation, it becomes a doubtful case which requires the fact finding in the trial and the court should normally grant the leave to defend in such cases so that the question of the genuineness of the need can be thrashed out completely in the trial.”

27. Reliance was placed on behalf of the present petitioner/ tenant on the verdict of this Court in ***Shambhu Nath Vs. Surinder Kumar Sharma 1991 (2) RCR 299*** to contend that where a landlord creates an artificial scarcity, the landlord should make other arrangements for the office if he was really hard up for accommodation and that the Court cannot assist a landlord who blocked three living rooms for the official purposes.

28. Reliance on the other hand was placed on behalf of the respondent herein i.e. the landlord on the verdict of this Court in ***Gopal DassGogia Vs. Shashi Prabha*** in RCR No.293/2012, a verdict dated 10.09.2014 to contend that foreign citizenship does not disentitle the landlord to reside in his own premises to stay in India and that experience to start a business is not a pre-requisite. It was also held therein that it was a settled law that the tenant cannot dictate or suggest how a landlord should conduct her affairs qua alternate premises. Reliance was also placed on behalf of the respondent/ landlord on the verdict of this Court in ***SarwanDass Bange Vs. Ram Prakash*** in RCR 35/2009 in support of his contention that merely because the petitioner was an NRI would not disentitle him to seek the relief of eviction of the tenanted premises which he required during the period his wife came to India.

ANALYSIS

29. On a consideration of the submissions that have been made on behalf of either side, it is essential at the outset, to observe that a contention had been sought to be raised on behalf of the tenant during the course of present proceedings itself that in as much as the landlord/

the petitioner of the eviction petition had sought the eviction of the tenant/petitioner herein on the grounds of bona fide requirement for commercial purposes to which the statute in existence did not apply in terms of Section 14 (1)(e) of the DRC Act, 1958 (as amended), in view of the verdict of this Court in ***Satyawati Sharma (Dead) by Lrs. Vs. Union of India & Another*** in Appeal (Civil) No.1897/2003, a verdict dated 16.04.2008 in as much as the same has been assailed in Civil Appeal No.3793/2016 titled as ***Vinod Kumar Vs. Ashok Kumar Gandhi and Ors.***, it is essential to observe that vide verdict dated 05.08.2019 in Civil Appeal No.3793/2016, the Hon'ble Supreme Court has categorically laid down that it did not find any good ground to refer the judgment of the Hon'ble Supreme Court in ***Satyawati Sharma (Dead) by Lrs. (supra)*** for consideration by a larger bench. Thus, it is apparent that the provisions of Section 14(1)(e) of the DRC Act, 1958 apply to the premises let out for both residential and commercial purpose.

30. As regards the contention that has been raised on behalf of the petitioner of the present petition i.e. the tenant that the needs of the respondent to the present petition are not bonafide and that the intent of the petitioner of the eviction petition was only to get the premises in suit evicted, coupled with the submission raised on behalf of the petitioner/ tenant that there were other suitable alternative accommodations available with the respondent, it is essential to observe that the petitioner has explained the needs for eviction of the tenant from the tenanted premises as being the requirement of the tenanted premises for the running of an independent kitchen and

bakery by the wife of the landlord i.e. the wife of the respondent arrayed to the present petition for which a letter of intent dated 15.10.2017 had already been issued by M/s Yuvi Restaurant Pvt. Ltd. in favour of the wife of the landlord in which it had been mentioned to the effect:

“As discussed, we hereby reduce in writing our intent to avail your expertise in the field of baking. We have a substantial need and requirement to offer baked products/pastries/breads/pizza's etc. on our menu for our upcoming Bar & Restaurant – “The Drunken Botanist” which is slated to open on December 15, 2017 at E-27/4 Middle Circle, Connaught Place, New Delhi 110001. We take great pleasure in offering you the following business proposal by way of this Letter of Intent.

Letter of Offer & Intent
(Main Terms & Conditions)

.....
.....
.....

5. As your proposed bakery/kitchen will be immediately adjacent to our Bar & Restaurant, we accept your proposal to offer for sale any of your baked items directly to customers who visit our Restaurant & Bar.”

which letter of intent itself corroborates the submissions that have been made by the landlord through the eviction petition that the tenanted premises would be immediately adjacent to the bar and restaurant of M/s Yuvi Restaurant Pvt. Ltd. and that thus, the tenanted premises is apparently as rightly held by the learned Rent Controller the more suitable tenanted portion available to the landlord to meet the bonafide needs or requirement of running a commercial business for

his wife in comparison to the premises available at E-44, Connaught Place back portion.

31. As regards the contention that has sought to be raised on behalf of the tenant/ petitioner of the present petition that in as much as the tenanted premises are sought by the landlord for additional accommodation and that for the same necessarily evidence needs to be led qua the aspect of bonafides of the landlord in terms of the verdict of this Court in ***Davinder Pal Singh & Ors. Vs. M/s Pritam Prakash Dawar & Sons (HUF) (supra)***, it is essential to observe that in the instant case, it has clearly been brought forth that in the facts and circumstances of the instant case, the letter of intent has been issued by M/s Yuvi Restaurant Pvt. Ltd. which is to run its restaurant in the premises leased out by the landlord to M/s Yuvi Restaurant Pvt. Ltd., which letter of intent issued by the said M/s Yuvi Restaurant Pvt. Ltd. itself indicates that the said restaurant was to be functional at E-27/4, Middle Circle, Connaught Place, which is the portion adjacent to the tenanted premises i.e. the tenanted premises situated at E-27/4 (old Municipal No.8250), Gopinath Building, Middle Circle, Connaught Place, New Delhi admeasuring 550 sq. ft. and thus the same does not fall within the ambit of additional alternative accommodation and thus falls within the ambit of the only suitably available accommodation available to the landlord to meet the bonafide needs of his wife running the bakery in the portion adjacent to the property leased out by the landlord to M/s Yuvi Restaurant Pvt. Ltd. The facts of the instant case are thus not in *pari materia* with the facts of the case relied upon on behalf of the petitioner of the present petition in

Davinder Pal Singh &Ors. Vs. M/s Pritam Prakash Dawar & Sons (HUF) (supra).

32. Furthermore, as laid down by the Hon'ble Supreme Court in ***D. Sasi Kumar vs. Soundararajan*** in Civil Appeal Nos.7546-7547/2019 arising out of SLP (Civil) Nos.12365-66/2019 dated 23.09.2019, it has been laid down that if as on the date of filing the petition, the requirement subsists and it is proved, the same would be sufficient irrespective of the time lapse in the judicial process coming to an end as was also laid down by the Hon'ble Supreme Court in ***Gaya Prasad vs. Pradeep Srivastava (2001) 2 SCC 604,***

33. As regards the reliance sought to be raised on behalf of the tenant/petitioner in relation to the reliance placed on proceedings in Eviction Petition No.34/2010 titled as ***Sanjay Gupta vs. Jakki Mull & Sons***, it is essential to observe that the said petition has since been withdrawn on 16.04.2018 as then bearing RC No.5434/10.

34. As regards the reliance that has been sought to be placed on behalf of the petitioner/ tenant on the lease deed dated 19.04.2017 executed between Mr. Sanjay Gupta i.e. landlord/ respondent to the present petition and M/s Yuvi Restaurant Pvt. Ltd. in relation to the area of about 9000 sq. ft. on the ground floor of property bearing no.E-27/4 in Block-E, Middle Circle, CP, New Delhi, the same does not assist the tenant/petitioner of the present petition in as much as the same does not detract from the bonafide needs of the landlord of the tenanted premises in suit.

35. Thus taking the totality of the circumstances of the case into account, it is apparent that the tenant/petitioner of the present petition

has not been able to bring forth any triable issue, which would have entitled him to the grant of leave to defend the eviction petition RC 39/2017 and it is thus held that there is no infirmity in the impugned order dated 30.1.2018 of the Rent Controller, Patiala House Courts, New Delhi in RC ARC No. 39/2017.

36. The RC.Rev. 130/2018 and the accompanying applications are thus dismissed. The interim order dated 28.08.2018 is vacated.

SEPTEMBER 27th, 2019/vm

ANU MALHOTRA, J.