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

\+ CM (M) 216/2019 & CM APPL.6054/2019

Judgment reserved on : 08.02.2019
Date of decision : 05.05.2020

SHRI RAJINDER PARSAD SINGHAL ..... Petitioner

Through: Mr. Piyush Jain, Advocate

versus

SMT. SHARDA DEVI ..... Respondent

Through: Mr. Satish Sahai, Advocate for Caveator.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The present petition has been filed by the petitioner under Article 227 of the Constitution of India seeking the setting aside of the impugned order dated 07.01.2019 of the Rent Control Tribunal, THC in RCT No.33/2017 whereby the said appeal of the petitioner and two applications under Order 41 Rule 27 of the CPC filed by the petitioner were dismissed whilst upholding the impugned judgment of the learned trial Court dated 30.03.2017 i.e. the Pilot Court (Central District), THC in Eviction Petition No.E-51/2017 whereby the eviction petition filed by the landlady i.e. the respondent to the present petition, Smt. Sharda Devi against the present petitioner Rajender Prasad Singhal under Section 14 (1) (b) of the Delhi Rent Control Act,

1958 as amended (hereinafter referred to as 'The Act')was allowed and the present petitioner was directed to be evicted from the tenanted premises comprising one shop in property bearing no.B-1437, Shastri Nagar, New Delhi-110052, it having been held that the landlady i.e. the petitioner of the eviction petition has successfully established that the respondent herein had sublet, assigned and parted with possession of the tenanted premises to Shri Raj Kumar and his son Shri Arpit Singhal.

2. At the outset, it is essential to observe that the petitioner herein has already availed of the remedy of an appeal to the Rent Control Tribunal and w.e.f. 01.12.1988, the remedy of the second appeal to this Court on a question of law has since been deleted and even the appeal under Section 38 of the DRC Act to the Rent Control Tribunal can be preferred only on a question of law.

3. The respondent was present on 08.02.2019 as the Caveator of Caveat 121/2019 when the matter had been taken up for consideration and was heard and the caveat discharged. Arguments have thus been addressed on behalf of either side.

4. It is essential to observe that as laid down by this Court in ***Nawal Kishore Vs. Mohd. Yakub*** in CM(M) 1256/2012 decided on 24.08.2017 in view of the verdict of this Court in ***Jasbir Singh vs Manjit Kaur & Ors.*** in **CM(M) No.1041/2011,** the petition under Article 227 of the Constitution has been held to be maintainable before this Court though this Court cannot act as a Court of appeal thereunder and it has been held that interference in terms of Article 227 of the Constitution is only to keep the authorities and Courts in

the supervisory jurisdiction of this Court within their bounds and where it results in manifest miscarriage of justice, and not in all cases, to correct mere errors. Further, as held by this Court in ***Nawal Kishore (Supra)*** and ***Jasbir Singh (Supra),*** the powers under Article 227 of the Constitution are discretionary in nature, to be exercised where the subordinate Court ignores material piece of evidence or considers some evidence which should not have been considered resulting into injustice. It is however, the cardinal principal laid down vide the said verdicts that where there are two views possible and the view adopted by the subordinate Court is reasonable and a plausible one, this Court would not be justified in interfering in such cases merely to arrive at a different view in the matter. It is on the basis of these fundamental principles laid down in ***Nawal Kishore (Supra)*** and ***Jasbir Singh (Supra)*** that the matter is taken up for consideration of the said aspect alone.

5. The respondent herein vide the Eviction Petition No. 51/2017 filed on 13.01.2017 under Section 14 (1)(b) of the CPC vide para 18 (a) thereof has submitted the grounds on which the eviction of the tenant i.e. the petitioner herein had been sought submitting to the effect:

"18(a) The ground on which the eviction of the tenant is sought:-

> *That the respondent is tenant under the petitioner, who is owner/landlord of the tenanted premises has, on or after 09.06.1952 has sub-let, assigned and otherwise parted with possession of the whole of the tenanted shop to his brother Sh.Raj Kumar and his son Sh.Arpit Singhal without obtaining the consent in writing of the petitioner/landlord. Further particulars in support of this plea are as under:-*

I. *That initially Sh.Geeta Ram father of the respondent was inducted as a tenant by the petitioner and he was carrying on business therefrom of General Store till the time of his death in the year 1991.*

II. *That after the death of Sh.Geeta Ram, all his legal heirs gave their no objections in writing to the petitioner whereby they gave their no objection if the respondent alone is accepted as tenant as also mentioned in para 14 above.*

III. *That accordingly the respondent alone was accepted as tenant by the petitioner in respect of the tenanted shop and the respondent started paying rent to the petitioner of the tenanted shop against rent receipts counter foils of which were regularly maintained by the petitioner which used to be signed by the respondent himself.*

IV. *That the respondent after becoming sole tenant of the tenanted shop started carrying on business of a General Store from the tenanted shop after the death of his father in the year 1991 and continued to do the said business. After few years the respondent started his own factory of manufacturing Chappals (Slippers) under the name and style of Gupta Plastic from premises bearing no.1337/90, Talaab Road, Tri Nagar, Delhi-110035 which business he continued to carry on from the said premises till or about the year 2002-03. The said premises were taken on rent by the respondent. Thereafter, the respondent shifted his said factory of manufacturing Chappals (Slippers) and its accessories to premises bearing no.308/14, 'Manish Gali' Shahzada Bagh, New Delhi-110035. As learnt the said premises are owned by the respondent. There exists a electricity connection provided by Tata Power Delhi Distribution Limited (TPDDP) Ltd. bearing CA 60011721747 in the said premises. Though the said connection is in the name of Gurvinder Industries but it is the respondent who has been consuming electricity from the said connection and paying electricity charges for the same. The respondent* *is having Telephone connections bearing no.9212560201/6524367 in his name which exists on the electricity bills issued by Tata Power Delhi Distribution Limited (TPDDP) Ltd. A copy of the said electricity (TPDDP) Ltd. bill is annexed as* ***Annexure-E****. The respondent is continuing the manufacturing of chappals and accessories relating thereto from the said premises at 308/14, Manish Gali Shahzada Bagh, New Delhi-110035 which business is exclusively owned by the respondent and the respondent is exclusively carrying out the said business from the said premises.*

V. That after staring his factory of manufacturing chappals (Slippers) and accessories relating thereto, the respondent gradually reduced the frequency of coming to the tenanted premises on account of his finding no spare time because of his getting totally involved in the business of manufacturing of Chappals/Slippers and accessories thereto and about two years back the respondent totally stopped coming to the tenanted premises and doing any business therefrom. The respondent accordingly sub-let, assigned and or otherwise parted with possession of the whole of the tenanted shop to this brother Sh. Raj Kumar and his son Sh. Arpit Singhal about two years back.

VI. That Sh. Raj Kumar and his son Sh. Arpit Singhal have been carrying on business of General store under the name and style of 'Rajesh Store' from the said tenanted shop. The said 'Rajesh Store' is also a member of Shastri Nagar Dukandar Kalyan Samiti (Regtd.) B-1460, Main /Bazaar Shastri Nagar, Delhi. The tenanted shop has been in exclusive possession said control of said Sh. Raj Kumar and his son Sh, Arpit Singhal. Sh. Raj Kumar along with his son namely Arpit Singhal are carrying on business from the said tenanted shop. The said shop is opened and closed everyday by Sh. Raj Kumar and his son Sh. Arpit Singhal. Seven photographs of the said tenanted shop alongwith a DVD showing Sh. Raj Kumar and his son doing business, having sign board of 'Rajesh Store'he and his son closing/opening the said tenanted *shop and being in complete possession and control thereof are filed herewith as Annexure-F (colly). That Sh. Raj Kumar has also taken a godown in property bearing no.B1373, Shastri Nagar, Delhi-110052 which is near to the tenanted premises where the goods connected with the business being carried on from the tenanted shop are stored by him.*

VII. That Sh. Raj Kumar has. also been issuing bills under the name of 'Rajesh Store' bearing his signatures and a copy of the one of the bills issued to Sh. Ashok Kumar son of the petitioner bearing signatures of Sh. Raj Kumar is also filed herewith as Annexure-G.

VIII. That the respondent has been left with no interest or connection whatsoever with the said business being now carried on from the tenanted shop which is exclusively owned by this brother Sh. Raj Kumar and his son Sh. Arpit Singhal. The respondent is not in possession and control of the tenanted shop as he has sub-let assigned and parted with possession of the tenanted premises to Shr. Raj Kumar and his son Sh. Arpit Singhal. That Sh. Raj Kumar has been paying rent of the said shop to the petitioner for the last several years and has been getting the counter foils of the rent receipts signed from the respondent on the insistence of the petitioner. Sh. Raj Kumar has lastly paid the rent for the period ending 31.03.2014 vide receipt dated 19.03.2014. However, the respondent has refused to sign the counter foils of the rent receipt dated 19.03.2014 for the period 01.06.2013 to 31.03.2014 on the ground that he has been left with no concern with the tenanted shop any more. A photocopy of the rent receipt dated 19.03.2014 is filed as Annexure-H."

6. The learned Pilot Court (Central) seized of the eviction petition on having heard the parties and taken into account the evidence led by either side has observed to the effect that the ownership of the landlady Smt. Sharda Devi over the premises in question as well as the

existence of landlord- tenant relationship between her and Shri Rajender Parsad Singhal (arrayed as the present petitioner) was not disputed which is not disputed even now. The evidence led before the Pilot Court (Central) brought forth that the landlady had placed on record the photographs and DVD to show Shri Raj Kumar and his son opening and closing the premises and sitting and transacting the business from the same and that the bills issued by Shri Raj Kumar from the tenanted shop were also proved by the landlady. The Pilot Court (Central) held that all the documents filed on record showed the presence of Shri Raj Kumar and his son Arpit Singhal at the tenanted premises which indicated that Shri Raj Kumar and his son Arpit Singhal were transacting business from the tenanted premises and were closing and opening the said premises and none of these photographs, DVD and documents showed the presence of the respondent to the eviction petition i.e. the present petitioner in the premises in question.

7. Though it has been sought to be contended by the present petitioner that Shri Raj Kumar is his real brother and was working there only as an employee in the tenanted premises, no record of his employment, attendance register, salary receipts or appointment letter were brought forth by the present petitioner before the Pilot Court to substantiate that he had appointed Shri Raj Kumar as his employee in the tenanted premises. In fact, Shri Raj Kumar, brother of the petitioner stated categorically that there was nothing like an employee-employer relationship between him and Shri Rajender Parsad Singhal

and that he does not take a fixed salary but ***withdraws as much as he wants according to his needs from the tenanted shop***.

8. The judgment of the learned Pilot Court indicates that Ms. Anju Johri from the office of the Shastri Nagar Dukandar Kalyan Samiti (Regd.) was examined as PW2 by the landlady who PW2 brought with her the receipts issued by the said Samiti in the name of M/s Rajesh Store as Ex. PW2/1 to Ex. PW2/3 and when Shri Rajender Parsad Singhal tried to bring forth that his name was mentioned as proprietor in the said receipts, ***it was stated by PW2, Anju Johri that the name of Shri Rajender Parsad as proprietor of M/s Rajesh Store was added at the instance of Shri Rajender Parsad Singhal who had visited the office of the said Samiti about a month prior to the date when this witness entered into the witness box***.

9. The learned Pilot Court on a consideration of the evidence led before it has observed vide para 16 thereof to the effect:

> *"16. Thus, it was for the respondent to prove as to how Sh. Raj Kumar came into possession of the premises in question and how his presence is shown in the premises. The respondent, however, failed to do so. The only contention made by the respondent is that since Sh. Raj Kumar is the real brother of the respondent, he allowed him to continue business with him in order to help him financially. However, as per the NOC EX. PW1/2 given by the LRs of late Sh. Geeta Ram, it is clear that all the Lrs of late Sh. Geeta Ram including Sh. Raj Kumar, had surrendered their tenancy rights in the premises in question in favour of the respondent Sh. Rajinder Parsad Singhal. That being the case, it was for the respondent to prove as to how Sh. Raj Kumar came into possession of the premises in question. The contention of the respondent that Sh. Raj Kumar is merely assisting the respondent in*

his business from the tenanted premises is also not substantiated by any document. No kaccha receipt has been filed by the respondent to show that he is also issuing kaccha receipt in favour of his customers for transacting the business like Raj Kumar. Further, no document or account statement has been shown to prove that Sh. Rajinder Parsad Singhal is doing any work from the tenanted premises, i.e. sale and purchase of articles from me said premises. Even, the income tax record filed by the respondent is not authenticated by any certificate u/s 65-B of the Indian Evidence Act. Further, no ITR has been filed on record to Show that the respondent is the sole Proprietor. Merely because the sign board of the tenanted premises is not changed by Sh. Rai Kumar, does not go on to prove that the respondent is still carrying on his business from the tenanted premises. The respondent has failed to prove that he has any control or has possession over the tenanted premises or that he often visits the tenanted premises.

17. It is also averred by the petitioner that the respondent has started his business of manufacturing of slippers, etc. from property bearing no.308/14, Shahzada Bagh, New Delhi. Per contra, as per the respondent, the said premises is under the ownership of his wife and that one Sh. Vijay Kumar is carrying on his business of manufacturing Chappals from the said premises. No title document has been placed on record by the respondent to substantiate that Smt. Raj bala, i.e. wife of the respondent is the owner of property no. 308/14, Shahzada Bagh, New Delhi or that she has let out the said property to one Shri Vijay Kumar. The contention that Sh. Vijay Kumar is the tenant with respect to the said property is nowhere alleged by the respondent in his written statement and it was for the first time in his affidavit of evidence that the respondent pleaded this contention. However, the same is not substantiated by any document and hence, cannot be relied upon. The best possible evidence could have been produced by the respondent to show that property bearing *no.308/14, Shahzada Bagh, New Delhi is under the ownership of his wife or that the same has been let out to Sh. Vijay Kumar but he failed to do so. Further, no ITR or registration documents of Gupta Plastic has been filed on record by the respondent to show that Sh. Vijay Kumar is running the said business or that Sh. Rajinder Parsad has nothing to do with the said business. Thus, in absence of any documentary proof, the respondent had failed to show that he is not carrying on any business of Gupta Plastic from property bearing no. 308/14, Shahzada Bagh, New Delhi or that he is carrying on his business from the tenanted premises itself. The petitioner, on the other hand, on the basis of documents placed on record, has clearly proved that Sh. Raj Kumar and his son Sh. Arpit Singhal are in exclusive possession of the tenanted premises and they are solely transacting business from the tenanted premises. Even the receipts issued by Shastri Nagar Dukandar Samiti produced by the respondent as Ex.RW1/2 (colly) do not go on to prove that the respondent is the sole Proprietor of M/s Rajesh Store. PW2 who entered into the witness box to prove the receipts issued by the said Samiti clearly stated before the Court that Sh. Rajinder Prasad Singhal had visited the office of the said Samiti and has asked his name to be mentioned as sole Proprietor without producing any document to prove the same. Thus, the said conduct of the respondent clearly shows his malafide intention."*

10. The learned Rent Control Tribunal in its impugned judgment dated 07.01.2019 observed to the effect:

"5. The defence of the tenant is that Raj Kumar is his real brother and he has kept him as an employee in the tenanted premises, however, no record of his employment, attendance register, salary receipts or appointment letter have been placed on record. RW2 Raj Kumar in his cross-examination has specifically admitted that he issued vouchers under his

signatures for the business, transacted from the tenanted premises; he opens and closes the shutter of the shop; he also admits that he sits at the shop from morning till it is closed and sometimes his son also visits the shop. He admits that the electricity bills are paid through the income generated from the shop. His brother has not shown himself as proprietor of M/s Rajesh Store m any government document. He does not receive any salary. His brother has not shown him as his employee in any document. He volunteered that there is no relation like employee since the tenant is his brother. No fix amount is received by him as salary but normally an amount of Rs.15,000/- to Rs.16,000/- is received by him.

6. RW1 Rajender Prasad Singhal in his cross-examination stated that he never opened any bank account as proprietor of M/s Rajesh Store nor did he get the firm registered under Shops & Establishment Act. M/s Rajesh Store was never registered with VAT and Sales Tax Department. He had never issued any appointment letter in favour of Raj Kumar since he is his real brother; he did not pay fixed salary to Raj Kumar since very beginning and Sh. Raj Kumar takes money as per his requirement. He has not shown Raj Kumar as his employee in any government record. The tenant does not issue any bill for the items purchased from the shop in question. Though he volunteered that he issued Kachi Parchi but he admitted that his brother issued Kachi Parchi like Ex. PV/1/16 to those customers purchasing items from the shop. He has not brought or filed any document on record to prove that he purchased products for M/s Rajesh Store as a proprietor. He had never made any payment towards this business of M/s Rajesh Store from his personal account. He also stated that he did not maintain any Kacha Chittha for the sale and purchase of M/s Rajesh Store. He also admitted that he never made any payment of electricity bill for the shop in question through cheque. He admitted that electricity bills are with his brother since they reside together. ***Surprisingly, he also stated that he cannot state the turnover of the business of M/s Rajesh Store for a year.***

***He could not .even state the expenses incurred in purchase of the products for M/s Rajesh Store**. From the evidence of RW1 &RW2, it is clear that tenant Sh. Rajender Prasad Singhal does not have any document or evidence in his possession to show that he sits at the shop in question, carries on or transacts any business therefrom or that Raj Kumar is his employee. He even does not have anything to show that he purchased products for M/s Rajesh Store. He even does not know about the annual turnover of his alleged business. He does not pay the electricity bill for M/s Rajesh Store. Hence, there is not even a single document on record to show that M/s Rajesh Store is the proprietorship concern of Mr. Rajender Prasad Singhal. The documents and evidence on record show that it is Raj Kumar and his son, who sit at the shop in question and carry out business therefrom. Documents like ITR documents, documents of education of the sons of Raj Kumar and another petition titled Sharda Devi v. Murari Lal have no concern with the property in question. Hence, the applications for leading additional evidence are dismissed."*

11. The present petitioner i.e. the respondent arrayed to the eviction petition, the tenant directed to be evicted from the tenanted premises for having parted with possession of the tenanted premises without obtaining written consent of the petitioner submits to the effect that the learned Pilot Court and the learned Rent Control Tribunal had both misread the evidence led and that they had not taken into account the original receipts issued by the Shastri Nagar Dukandar Kalyan Samiti (Regd.) nor the rent receipts issued by Ram Prakash in favour of the present petitioner for the tenanted godown in property bearing no.B-1373, Shastri Nagar, New Delhi which was taken for proper functioning of the tenanted premises and the learned trial Court had refused to admit the said document in evidence and that the documents

i.e. the registered sale deed of the shop, copy of the ITR (V) and the computation of total income and Trading and Profit and Loss Account for the Financial Year 2015-16, AY 2016-17 (Mark A Colly) were not taken into account by the learned trial Court which de-exhibited the said documents as well as the challan dated 14.03.2017 Ex. RW1/1 and the registered sale deed of the property bearing no.308/14, Shahzada Bagh, New Delhi in favour of his wife Smt. Rajbala, counter foils of rent receipts issued by Smt. Rajbala (Wife of the petitioner) in favour of Shri Vijay Kumar with respect to property bearing No.308/14, Shahzada Bagh, New Delhi.

12. The petitioner has further submitted that his brother Shri Raj Kumar was examined as RW2 and he supported the case of the present petitioner that the tenanted premises were not sublet or parted by him i.e. the present petitioner to Raj Kumar and his son Arpit Singhal and the documents RW2/1, vouchers of salary of RW2 were also not admitted in evidence by the learned trial Court, which ought to have been admitted by the learned trial Court. The petitioner further submitted that even his application under Order 41 Rule 27 of the CPC filed before the learned Rent Control Tribunal seeking that the rent receipts issued by Ram Prakash in favour of M/s Rajesh Store appellant Sh. Rajinder Parsad for the tenanted godown i.e. property No. B-1373, Shastri Nagar, Delhi for proper functioning of the tenanted premises which showed that the appellant was the sole proprietor of M/s Rajesh Store and *inter alia* Ex RW2/1- salary vouchers of M/s Rajesh Store which proved that the brother of present petitioner Sh. Raj Kumar was an employee of M/s Rajesh Store were

not taken into account by the learned trial Court. The present petitioner has submitted that even the education document of the son of his brother i.e. of Shri Arpit Singhal which proved that Arpit Singhal was studying and not doing any business, the copy of the conversion receipt issued by the MCD in favour of the petitioner which showed that the petitioner herein was the sole proprietor of Rajesh Store and the copy of the MCD application form of shop/commercial establishment which proved that the present petitioner was the sole proprietor of M/s Rajesh Store and the photographs which showed that the petitioner was in possession of the tenanted shop and the certificate under Section 65 B of the Indian Evidence Act to substantiate the ITR documents filed by the petitioner which established that the petitioner was the proprietor and doing business and was in possession of tenanted shop were not taken into account by the learned Rent Control Tribunal. The petitioner has also submitted that during the pendency of the appeal, he came to know that the respondent had filed a petition under section 14(l)(e) Delhi Rent Control Act titled as ***Sharda Devi Vs Murari Lal*** bearing petition No.556/17 in the Tis Hazari courts, Delhi against the tenant of another shop situated in the same property where the tenanted shop in question was situated and came to know that the respondent had mentioned in the said petition that the petitioner herein was a tenant and was in possession of the tenanted shop, which itself it was submitted is a clear cut admission on behalf of the respondent that the petitioner is a tenant as well as in possession of the tenanted shop and that the respondent had nowhere mentioned in the said petition that the petitioner had sublet the tenanted shop.

13. The petitioner submitted that the prayer made by the petitioner even seeking the placement of the certified copy of the documents through the petitions bearing No.556/2017 titled as ***Sharda Devi Vs Murari Lal*** under Section 14(1)(e) Delhi Rent Control Act and sought to be brought as an additional document before the Rent Control Tribunal was erroneously not allowed. The petitioner further submitted that in reply to the application under Order 41 Rule 27 CPC filed by the present petitioner, the respondent before the Rent Control Tribunal admitted the petitioner to be a tenant and in possession of the tenanted premises and had not refuted the same and thus could not be allowed to withdraw his own admission and the admission made by the respondent herein of the petitioner being a tenant in the tenanted premises thus operated as an estoppel against the respondent.

14. The petitioner has further submitted that the learned trial Court and the Rent Control Tribunal had both failed to appreciate that the ITR, for computation of Income and Trading and P & L Account wherein it was specifically mentioned that Raj Kumar, his brother is receiving salary from the present petitioner and the said document i.e. ITR, Computation of Income and Trading and P & L Account showed that the petitioner is a proprietor of M/s Rajesh Store even in the year 2016 and that the Rent Control Tribunal and the learned trial Court had failed to appreciate that the petitioner herein was in possession and control of tenanted premises. **The petitioner submitted that the respondent had not brought on record anything to establish the**

relationship and incident of landlord and a tenant between him and his brother. The petitioner further submitted that the petitioner had issued a demand draft in favour of the respondent for the rent of tenanted premises which was refused by the respondent and thus he had deposited the rent before the Rent Controller, which aspect was not taken into account by the Rent Control Tribunal or by the learned trial Court. The petitioner has further submitted that the said authorities have not taken into account that the petitioner and Raj Kumar are real brothers and stay in the same house and that the respondent has failed to discharge the initial onus put on him that the third party was in exclusive possession of the tenanted premises let out for valuable consideration.

15. On a consideration of the entire available record and rival submissions addressed on behalf of either side, this Court is of the considered view that there is no error apparent on the face of the record in the impugned order dated 30.03.2017 of the Pilot Court (Central District) nor in the impugned judgment dated 07.01.2019 of the learned RCT (Central) warranting any interference. This is so in as much as the entire available record speaks eloquently to the effect that the petitioner who became the sole tenant in the tenanted premises at B-1437, Shastri Nagar, New Delhi shown in red colour in the site plan annexed alongwith the petition bearing Eviction Petition No.51/2017 filed in the Pilot Court (Central District) and who had become such sole tenant after the demise of his father Shri Geeta Ram, the initial tenant, in view of other legal representatives of Shri Geeta Ram who expired on 09.02.1991 having given their no objection in writing to

the petitioner becoming the sole tenant in the tenanted premises which aspect has not been refuted by the petitioner herein and thereafter, the petitioner started a factory of manufacturing of chappal/ slippers under the name and style of Gupta Plastic at the premise bearing No.1337/90, Talaab Road, Tri Nagar, Delhi which factory was shifted around 2002-03 to premises no.308/14, Manish Gali, Shahzada Bagh, New Delhi where the petitioner continues to manufacture chappals and accessories. The record thus substantiates the contention of the respondent that the petitioner initially reduced his frequency of coming to the tenanted premises in question and gradually parted with possession of the whole of the tenanted shop to his brother Raj Kumar who has been running M/s Rajesh Store from the said tenanted shop exclusively with the petitioner not even being aware of the annual turnover of the Rajesh Store being run in the tenanted premises by Shri Raj Kumar, the real brother of the petitioner.

16. That the petitioner has claimed that his brother is an employee in M/s Rajesh Store and is not the proprietor thereof; qua which it is essential to observe that the brother of the petitioner has stated that there is no relationship of an employee-employer between him and the petitioner in as much as the petitioner is his brother. Further M/s Rajesh Store run in the tenanted premises by the petitioner's brother and by his son is not registered with the VAT and Sales Tax Department and PW2 Ms. Anju Johri from the office of the Shastri Nagar Dukandar Kalyan Samiti (Regd.) has categorically testified to the effect that the receipts in relation to the Rajesh Store which is run in the tenanted premises, the name of Rajender Parsad being

mentioned as the proprietor therein was added at the instance of the petitioner who visited the office of the Samiti a month prior to the date when the witness entered into the witness box; the said testimony of PW2 itself sets at naught the veracity of the claim of the petitioner that he has not parted with the possession of the tenanted premises to the respondent.

17. As regards the contention of the petitioner that the ITR documents would show that he is the proprietor of M/s Rajesh Store, it is essential to observe that Section 14(1)(b) of the DRC Act, 1958 (as amended) provides for the grant of an order or decree for the recovery of possession of any premise in favour of the landlord against the tenant where the tenant has on or before 9th day of June, 1952 sublet, assigned ***or otherwise parted with possession of the whole or any part of the premises without obtaining the consent in writing of the landlord*** thus making it apparent that even if the incidents of a lease between the petitioner and his brother Raj Kumar are not brought out by the respondent, the factum of Raj Kumar along with his son running M/s Rajesh Store in the tenanted premises exclusively to the exclusion of the petitioner is clearly borne out through the record.

18. As regards the contention raised by the petitioner that the prayer made by the petitioner seeking to place on record an additional document with certified copy of the petition bearing No.E-556/2017 titled as ***Sharda Devi Vs. Murari Lal*** under Section 14(1)(b) of the DRC Act, 1958 (as amended) filed by the respondent herein in which the respondent had admitted that the petitioner was in possession of the tenanted shop does not suffice itself to indicate that the petitioner

has not parted with the possession of the tenanted shop for apparently a petition under Section 14(1)(e) of the DRC Act, 1958 (as amended) filed by the landlady on the ground of bonafide requirement, would only necessarily have to show that the landlady has no other suitable accommodation available with her to meet her needs to fulfil the parameters of Section 14(1)(e) of the DRC Act, 1958 (as amended).

19. In the circumstances, the prayer made by the petitioner seeking to lead additional evidence has been rightly declined by the RCT and there is no ground whatsoever for interference with the impugned orders or to remand back the matter to the learned Rent Controller, in as the conclusion arrived at by the Ld. Rent Controller and the Ld. Rent Control Tribunal vide their impugned judgments on the basis of the record is wholly plausible and cannot be faulted with.

20. The petition is dismissed.

ANU MALHOTRA, J.

MAY 5th, 2020/vm