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

+ **RC.REV. 53/2023 & CM APPL. 8245/2023**

**SUNIL CHARLA**

..... Petitioner

Through: Mr. R.K. Jain, Advocate.

versus

**MADAN LAL & ORS.**

..... Respondents

Through: Mr. Karan Mehra and Mr. Kunal Malhotra, Advocates

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Reserved on: 27<sup>th</sup> April, 2023

Date of Decision: 04<sup>th</sup> July, 2023

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

### **J U D G M E N T**

#### **MANMEET PRITAM SINGH ARORA, J:**

1. This revision petition has been filed by the Petitioner ('Tenant'), assailing the order dated 20.02.2020, passed by the Additional Rent Controller (West), Tis Hazari Courts, Delhi ('Trial Court'), in Eviction Petition No. E-7/2013 (New No. 25267/2016), whereby, post-trial, the eviction petition filed by the Respondents ('Landlords') herein filed under Section 14(1)(e) of the Delhi Rent Control Act, 1958 ('DRC Act') was allowed with respect to one hall on the ground floor with common WC and a part of open space up to the front entrance of the hall, being part of the property No. 5/15, Kirti Nagar, Small Industrial Area Delhi ('tenanted premises').



2. The eviction petition was filed by the Landlords, three (3) original petitioners, on the plea of the *bona fide* requirement for self and their children. The eviction petition was supported by their respective affidavits detailing the purpose for which the tenanted premises was required. It was categorically asserted that there is no other commercial property owned by the Landlords to satisfy their *bona fide* need except for the tenanted premises.

3. The eviction petition was resisted by the Tenant, who sought leave to defend and opposed the prayer as made by the Landlords *vide* application dated 01.07.2013. The leave to defend was granted *vide* order dated 09.04.2014, wherein, the then Rent Controller opined that since the property was let out for industrial purpose and is sought to be recovered for carrying on commercial activities by the sons of the Landlords, the said issue with respect to the permissible user of the tenanted premises gives rise to a triable issue. The Tenant was accordingly granted an opportunity to file his written statement.

4. The parties led evidence. Each of the Respondents, Landlords stepped into the witness box as PW-1, PW-2, and PW-3 respectively to testify about the *bona fide* need of self and their respective children. The Tenant elected not to step into the witness box on the ground that he remains 'busy' and instead, his power of attorney holder Mr. Lalit Kumar Handa stepped into the witness box as RW-1.

5. The Trial Court after conclusion of the trial, appraised the pleadings and evidence led by the parties and held that the Landlords have proved all the ingredients of Section 14 (1) (e) of the DRC Act; and passed the impugned eviction order in favour of the Landlords on



20.02.2020.

5.1. Being aggrieved by the said eviction order, the Tenant filed a review petition before the Trial Court. It is stated that during the pendency of the review petition, one of the landlords i.e., Mr. Jaswant Lal (original Petitioner no. 3) passed away on 23.09.2021 and his legal heirs were brought on record before the Trial Court.

5.2. The statutory period of six (6) months granted by the Trial Court under Section 14 (7) of the DRC Act expired on 20.08.2020. However, the Tenant continued to occupy the tenanted premises on the pretext of the review petition preferred before the Trial Court.

5.3. The review petition was dismissed by the Trial Court on 04.01.2023 and thereafter, the present revision has been preferred against the eviction order dated 20.02.2020.

***Arguments of the Petitioner, Tenant***

6. Mr. R.K. Jain, learned counsel for the Petitioner, Tenant made the following submissions:

6.1. He stated that since the tenanted premises are industrial in nature and it was let out to the Tenant for industrial purpose, the recovery now being sought by the Landlords, for the commercial purpose is not tenable. He relies upon the preliminary objection raised at paragraph 8 of the written statement. He states that it is not permissible to use the tenanted premises for commercial purpose and the eviction petition should be dismissed on this ground alone.

6.2. He states that the erstwhile Rent Controller identified the above-mentioned issue as a triable issue *vide* order dated 09.04.2014, but the



Trial Court failed to record a finding on this issue.

6.3. He states that ground of *bona fide* requirement raised in another Eviction petition i.e., E. No. 206/2011 filed against another tenant (i.e., M/s Forward Auto Products and Sh. Devender Sharma), occupying a distinct portion of the premises, was withdrawn on 02.06.2012. The Landlords elected to pursue the said eviction petition against the other tenant only, under Section 14 (2) of the DRC Act.

6.4. He states that the averment of *bona fide* requirement is not satisfied as the need of the adult sons of the Landlords is not proved on record.

6.5. No other argument was addressed by the counsel for the Petitioner.

***Arguments of the Respondents, Landlords***

7. Mr. Karan Mehra, learned counsel for the Respondents, Landlords submitted as under:

7.1. He states that the Petitioner, Tenant has been occupying the tenanted premises without paying any use and occupation charges at the current market rate after passing of the eviction order dated 20.02.2020. He states that the current use and occupation charges of the tenanted premises would be at least Rs. 1,25,000/- per month.

7.2. He states that the eviction petition was filed on 23.05.2013 and the Landlords have been deprived of the relief of recovery for the past 10 years on account of frivolous pleas raised by the Tenant.

7.3. He states that PW-2, Sh. Mohan Lal has categorically stated in the eviction petition and his evidence that he proposed to set up a small manufacturing cum stocking unit in the tenanted premises. He states that the said PW-2 has also deposed in his cross-examination that the tenanted



premises can be used for both industrial purpose and commercial purpose.

7.4. He states that there is no legal bar to use the tenanted premises for both industrial purpose and commercial purpose.

### ***Analysis and Findings***

8. This Court has considered the submission of the parties and perused the record.

9. With respect to the issue of the landlord-tenant relationship, the Respondents, Landlords have placed on record the lease deed dated 10.11.1976, which duly records that the property was let out by late Sh. Hari Chand in favour of the late Sh. Jiwan Dass Charla. The said lease was for a period of 11 months and does not require registration as per Section 107 of the Transfer of Property Act, 1882. The relevant portion of Section 107 of Transfer of Property Act, 1882 reads as under:

*“107. Leases how made— A lease of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.*

***1/[All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession].”***

9.1. The Landlords are the sons of late Sh. Hari Chand and the Tenant is the grandson of late Sh. Jiwan Dass Charla. The Tenant has admitted tendering rent to the present Landlords.

9.2. Since in the eviction proceedings, the Tenant had sought to dispute the title of the Landlords in the tenanted premises, PW-3 i.e., Sh. Jaswant Lal (since deceased) had produced the title documents during the course of cross-examination and the same were exhibited as Ex. PW-3/F.

9.3. The Trial Court has returned a finding that the Respondents,



Landlords herein are the owners as well as the landlords and therefore, the said ingredient of Section 14 (1) (e) of the DRC Act stands satisfied.

9.4. Though, the Tenant had contested the said issue in the eviction proceedings, the said finding of the Trial Court has not been assailed before this Court and therefore, the said finding has become final. Even otherwise in view of the lease deed dated 10.11.1976 and the fact that the Tenant has attorned to the Respondents, Landlords by tendering the rent, this Court is satisfied that the said finding of the Trial Court is correct.

9.5. This Court is also of the opinion that the plea raised by the Tenant in the eviction proceedings disputing the title of the Landlords and the relationship of landlord and tenant was frivolous and raised only with a view to perpetuate the trial.

10. With respect to the availability of *alternate suitable accommodation*, the Petitioner, Tenant had in its written statement alleged that the Landlords have in their possession alternate accommodation. However, no details of the alleged alternate accommodation were enlisted in the written statement. So also, in the evidence led by RW-1 (i.e., Sh. Lalit Kumar Handa) while making a bald assertion that the Landlords have available alternate accommodation, once again no details were enlisted in the chief affidavit of RW-1.

10.1. Even during the course of oral arguments before this Court, no plea as regards to alternate accommodation has been urged.

10.2. Therefore, the finding of the Trial Court that the Tenant has been unable to substantiate the allegation of alternate accommodation is correct. The relevant extract of the finding of the Trial Court reads as under:



*“14. Perusal of record shows that in the present case, the petitioners have sought the tenanted premises as they want to start their own entrepreneurship from the tenanted premises and have claimed that they do not own any other premises to cater this bona fide need.*

*On the other hand, the respondent has claimed that the petitioners do not have any bonafide requirement as they and their family are already settled and the respondent has also claimed that the petitioners are having other alternative accommodations.*

*I have carefully and minutely gone through the testimonies of all the witnesses and material on record.*

*Perusal of written statement filed by the respondent shows that although the respondent has claimed that the petitioners are having the ownership and possession of several properties but he has not mentioned the details thereof in his written statement and has merely made the bald averments. Moreover, the respondent has also claimed the petitioners have concealed several properties owned by them but he has not stated even a single property which is owned by the petitioners and in possession of the petitioners.”*

11. The Tenant has therefore in essence, only sought to challenge the *bona fide* need of the Landlords in this revision petition.

11.1. In these proceedings, the eviction petition has been filed by three (3) individuals, who are brothers and jointly own the tenanted premises. The recovery of the tenanted premises is sought on the plea of *bona fide* requirement of the self and the adult sons of each of the individuals.

11.2. Mr. Madan Lal, Respondent No. 1, stepped into the witness box as PW-1. He also filed an affidavit in support of the eviction petition, wherein, it was detailed that he is a retired government employee dependent on his pension. He stated that his elder son, namely Sanjay is a qualified Chartered Accountant and the tenanted premises are required by Mr. Sanjay to set up his own office. He stated that his younger son, namely Vipin, runs a small photo studio from the residential premises of



PW-1 and the operation of the photo studio from the residential premises was unauthorized. He stated that the younger son, namely Vipin, wants to set up a photo-developing studio in the tenanted premises. The said PW-1 was cross-examined to elicit that both Mr. Sanjay and Mr. Vipin are gainfully employed and therefore, do not require the tenanted premises for either setting up an office or a photo studio respectively.

11.3. Mr. Mohan Lal, Respondent No. 2 stepped into the witness box as PW-2. In his affidavit filed in support of the eviction petition, he stated that he as well as his son namely Vivek is running a licensed Chemist Shop from the residential premises. He stated that he along with his son intend to start manufacturing unit and not restrict their business to the sale and purchase of medicines. The said PW-2 was cross-examined to elicit that neither PW-2 nor his son were currently holding a license for the manufacture or storage of drugs.

11.4. Mr. Jaswant Lal (since deceased) stepped into the witness box as PW-3. He stated in his affidavit filed with the eviction petition that he has a son namely Mudit. He stated that Mr. Mudit would jointly participate with his cousins in the operation of the manufacturing unit proposed to be set up in the tenanted premises. In the cross-examination of PW-3, the Tenant elicited that Mr. Mudit is gainfully employed and has a job in an Accounts Department.

11.5. The sum and substance of the contention of the Tenant is that since the sons of the Landlords are gainfully employed, therefore, they have no *bona fide* need for the tenanted premises.

12. The Trial Court has rejected the said contention of the Tenant and held as under:



“16. In view of observations made by Hon'ble Supreme Court; it is well settled that a person is not supposed to remain unemployed till the disposal of the eviction petition. Furthermore, this Court is of the opinion that there is nothing malafide if the petitioners want to start their businesses. Rather, the said requirement seems to be bonafide as they want to earn their livelihood and the tenant cannot stop the landlord/family member of landlord from starting any business for livelihood. The bonafide requirement of a landlord does not become malafide just because landlords want to run business for their livelihood from their own property. The consequent hardship to tenant from eviction order could also not convert otherwise bonafide requirement into malafide requirement. In my view it is a right of every person to excel in his/her life and a person is not supposed to be remained in same position.

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21. Another plea of the respondent is that petitioner Sh. Madan Lal is a retired person and he has no intention to work. In considered view, even a retired person can do work or start the business even after the retirement and there is no embargo put by the law or anyone else. I have gone through all the contentions of the respondent which, in my considered view have no merit.

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23. I have placed myself in the place of the landlord to determine whether in the given facts on record, the need to occupy the premises by the landlord can be said to be natural, real, sincere and honest. And I have also applied a practical approach instructed by the realities of life on the concept of bonafide need or genuine requirement. In view of discussions as earlier and well settled proposition of law. I am of the considered view that the need/requirement of a landlord/petitioner in the present case is bonafide, genuine, honest and conceived in good faith.

24. In my considered view, in view of the discussions earlier, the petitioner is not having the alternative reasonably suitable commercial accommodation with them to satisfy the bonafide need as mentioned in the present petition. Moreover, the respondent has not been able to prove on record that the petitioner is having malafide and alternative reasonably suitable commercial accommodation with them.”

12.1. The Trial Court after duly taking note of the law laid down by the Supreme Court and the High Court concluded that the need of the Landlords and their respective sons in the facts of this case is *bona fide*



and not moonshine as alleged by the Tenant. In this regard in ***Joginder Pal Singh v. Naval Kishore Behal (2002) 5 SCC 397***, the Supreme Court at paragraph 24 had recognized the need of the adult children of the landlord as *bona fide* and observed as under:

*“24. We are of the opinion that the expression “for his own use” as occurring in Section 13(3)(a)(ii) of the Act cannot be narrowly construed. The expression must be assigned a wider, liberal and practical meaning. The requirement is not the requirement of the landlord alone in the sense that the landlord must for himself require the accommodation and to fulfil the requirement he must himself physically occupy the premises. The requirement of a member of the family or of a person on whom the landlord is dependent or who is dependent on the landlord can be considered to be the requirement of the landlord for his own use. In the several decided cases referred to hereinabove, we have found the pari materia provisions being interpreted so as to include the requirement of the wife, husband, sister, children including son, daughter, a widowed daughter and her son, nephew, coparceners, members of family and dependants and kith and kin in the requirement of landlord as “his” or “his own” requirement and user. Keeping in view the social or socio-religious milieu and practices prevalent in a particular section of society or a particular region, to which the landlord belongs, it may be the obligation of the landlord to settle a person closely connected with him to make him economically independent so as to support himself and/or the landlord. To discharge such obligation the landlord may require the tenancy premises and such requirement would be the requirement of the landlord. If the requirement is of actual user of the premises by a person other than the landlord himself the court shall with circumspection inquire: (i) whether the requirement of such person can be considered to be the requirement of the landlord, and (ii) whether there is a close interrelation or identity nexus between such person and the landlord so as to satisfy the requirement of the first query. Applying the abovesaid tests to the facts of the present case it is clear that the tenancy premises are required for the office of the landlord's son who is a chartered accountant. It is the moral obligation of the landlord to settle his son well in his life and to contribute his best to see him economically independent. The landlord is not going to let out the premises to his son and though the son would run his office in the premises the possession would continue with the landlord and in a sense the actual occupation by the son would be the occupation by the landlord himself. It is the landlord who requires the premises for his son and in substance the user would be by the landlord for his son's office. The case squarely falls within the scope of Section 13(3)(a)(ii) of the Act.”*

(Emphasis supplied)

12.2. This Court is in agreement with the findings returned by the Trial

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Court. The Landlords have sufficiently explained their *bona fide* need for using the tenanted premises for the proposed manufacturing unit as well as the office of their respective sons.

12.3. The cross-examination of RW-1 (i.e., Mr. Lalit Kumar Handa) is very telling. The said cross-examination shows that the dispute raised to the *bona fide* need of the Landlords is frivolous and without any basis. The relevant portion of the cross-examination read as under:

**“I have not seen the premises where the petitioners are residing. I have also not seen any premises which is available with the petitioners for carrying out activities as mentioned in their petition. I also do not have any knowledge regarding the activities being conducted by the petitioners or by their respective children.”** (Vol. The petitioners themselves are running business from the premises bearing No. 5/15, Kirti Nagar Industrial area). **I got acquainted with the petitioners only during the present proceedings** (Vol. When I was Inducted as tenant in the premises, I met the petitioners). It is wrong to suggest that I was never inducted as tenant in the premises by the petitioners or that I am a trespasser in the premises.”

12.4. The said cross-examination shows that the Tenant has no cogent basis for disputing the *bona fide* need of the Landlords and their respective sons. In this regard, this Court also takes note of the fact that the Tenant i.e., Sh. Sunil Charla has neither affirmed the written statement nor stepped into the witness box to raise the dispute of *bona fide*. The Tenant executed a Special Power of Attorney (‘POA’) dated 28.06.2013 in favour of Sh. Lalit Kumar Handa to defend the eviction proceedings. The reason given in the POA for not prosecuting the matter personally reads as under:

**“Whereas Mandalal & Ors. have filed Eviction Petition Bearing No. E-71/2013 in the Court of Ms. Charu Aggarwal, CCJ-Cum-A.R.C., Delhi in regard to the property No.5/15, Kirti Nagar, Small Industrial Area, New Delhi and summons have been received, I remain busy, therefore, I authorize my S.P.A. Sh. Lalit**



**Kumar Handa to contest the said petition, appeal, revision, review and other proceedings required he is also authorized to the following.**

12.5. It is not apparent from the record of this petition with respect to the connection, if any, that RW-1 has with the tenanted premises. The said RW-1, therefore, has no *personal knowledge* of the facts of this case and his testimony disputing the *bona fide* need of the Landlords and their sons is therefore without any basis.

12.6. In this regard, it would be appropriate to refer to the case of ***Janki Vashdeo v. Indusind Bank Ltd. & Ors, 2005 2 SCC 217***, wherein, the Supreme Court observed that, if the POA holder does not have *personal knowledge* of the matter, he can neither depose on his *personal knowledge* nor can he be cross-examined on those facts which are to the *personal knowledge* of the principal. The operative portion to this aspect reads as under:

*“12. In the context of the directions given by this Court, shifting the burden of proving on to the appellants that they have a share in the property, it was obligatory on the appellants to have entered the box and discharged the burden by themselves. The question whether the appellants have any independent source of income and have contributed towards the purchase of the property from their own independent income can be only answered by the appellants themselves and not by a mere holder of power of attorney from them. **The power-of-attorney holder does not have personal knowledge of the matter of the appellants and therefore he can neither depose on his personal knowledge nor can he be cross-examined on those facts, which are to the personal knowledge of the principal.**”*

*13. Order 3 Rules 1 and 2 CPC empower the holder of power of attorney to “act” on behalf of the principal. In our view the word “acts” employed in Order 3 Rules 1 and 2 CPC confines only to in respect of “acts” done by the power-of-attorney holder in exercise of power granted by the instrument. The term “acts” would not include deposing in place and instead of the principal. In other words, **if the power-of-attorney: holder has rendered some “acts” in pursuance of power of attorney, he may depose for the principal in respect of such acts, but he cannot depose for the principal for the acts done by the**”*



principal and not by him. Similarly, he cannot depose for the principal in respect of the matter of which only the principal can have a personal knowledge and in respect of which the principal is entitled to be cross-examined.”

(Emphasis Supplied)

12.7. The said principle was further expounded by the Supreme Court in its subsequent judgment in ***Man Kaur v. Hartar Singh Sangha (2010) 10 SCC 512*** and the Court reiterated that an attorney holder cannot depose on matters, which are within the personal knowledge of the principal. The Court therein specifically declared that evidence with respect to *bona fide* need of the landlord cannot be deposed by an attorney holder. In the present case, as noted above, the RW-1 admittedly has no personal knowledge of the state of affairs of the Landlords and is, therefore, not competent to challenge the *bona fide* need of the Landlords. He has not disclosed any concern with the tenanted premises.

12.8. In the opinion of this Court, a Tenant, who has failed to step into the witness box in a proceeding under Section 14 (1) (e) of the DRC Act on the pretext that he is ‘busy’ cannot be allowed to challenge the plea of *bona fide need* pleaded by the Landlords through a mere POA holder.

12.9. In the aforesaid facts and circumstances, this Court is satisfied that the plea of *bona fide* need as pleaded and proved by the Landlords has been rightly appreciated by the Trial Court.

13. In revision, the powers of this Court are supervisory and one of superintendence and this aspect has been reiterated by the Supreme Court in the case of ***Abid-Ul-Islam v. Inder Sain Dua, 2022 6 SCC 30***, more specifically in paragraph 23 therein, which reads as under:



“23. The proviso to Section 25-B (8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. **The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record, which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision.** There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature, that of a regular first appeal, an act, totally forbidden by the legislature.”

(Emphasis Supplied)

14. With respect to the submission of the Tenant that since the premises were let out for industrial purpose, the same cannot be recovered for commercial purposes under the DRC Act, is also without merit. The learned counsel for the Petitioner improvised the said submission during arguments to contend that in fact the tenanted premises are excluded from the purview of the DRC Act since the letting was for industrial purpose.

14.1. The Trial Court has dealt with and rejected the aforesaid contention at paragraph 19 of the impugned eviction order and rightly so, said paragraph 19 reads as under:

“19. One of the pleas of the respondent is that the tenanted premise is industrial in nature and not commercial. **In my considered view, for the purposes of U/Sec, 14(1) (e) of the D.R.C, Act, there are only two categories; one residential and the second one is commercial and certainly industrial premises is also included in commercial premises. As such, this plea of the respondent is also devoid of merit**”.

14.2. Section 3 (c) of the DRC Act categorically stipulates that the Act shall not apply to ‘any premises’ whose monthly rent exceeds Rs. 3,500/-. Section 2 (i) of the DRC Act defines the expression ‘premises’ and states



unequivocally that it includes ‘any premises’ whether let out for use as a residence or for commercial or for any other purpose. A conjoint reading of Section 2 (i) and Section 3 (c) of the DRC Act leaves no manner of doubt that the intention of statute is to cover all types of premises and the definition is of the widest amplitude. Section 2 (i) and Section 3 (c) of the DRC Act reads as under:

**“Section 2 (i) (Definitions)**

(i) “premises” means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes:

(i) the garden, grounds and outhouses, if any, pertaining to such a building or part of the building.

(ii) any furniture supplied by the landlord for use in such a building or part of the building; but does not include a room in a hotel or lodging house.

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**Section 3(c) (Act not to apply to certain premises)**

(c) to any premises, whether residential or not, whose monthly rent exceeds three thousand and five hundred rupees”

14.3. A Coordinate Bench of this court in ***I.D. Malik v. Duli Chand, 1968 SCC OnLine Del 177*** discussed the scope and ambit of the phrase premises defined in Section 2(i) of the DRC Act and held that industry falls under the third category i.e., ‘for any other purpose’ of the said definition. The operative portion to this aspect reads as under:

*“7. ....The landlord tries to make out a distinction between a commercial purpose and an industrial purpose, while the tenant is trying to show that the commercial purpose includes the running of the Flour Mill also. The contention of the tenant is more in accord with the provisions of Delhi Rent Control Act, 1958. The purposes of a tenancy have been divided into three classes by Section 2(i) of the said Act. These are (1) residence, (2) commercial, and (3) any other purpose. Since all possible purposes have been divided into only three categories, we have to see in which of the three categories the Flour*



Mill fits in. It is clear that it does not fit in category No. 1. The question is whether it should fall in category No. 2 or 3. A little reflection would show that category No. 3 includes those purposes which are neither residential nor commercial. Such purposes would be charity, library, education, etc. This would show that words “commercial use” were used in the larger sense to denote very profit making use of the premises. For, they would then include both commerce and industry. If these words are construed narrowly to include commerce, but not industry then industry would fall into the third category along with non-profit making purposes. When the purpose of the statute was to divide all possible purposes only into three categories, there is no warrant for construing commercial use in a narrow sense to exclude industrial use. That would result in the third category including industry along with non-profit making purposes. The number of categories being few, the ambit of each category has to be construed as widely as possible, so that each category would have as large a scope as possible, so that the third residuary category is not made to include some purpose which would be comprised in the first two categories on a liberal construction.”

(Emphasis Supplied)

14.4. Moreover, in the written statement dated 21.04.2014, there was no objection raised by the Petitioner, Tenant that the premises are not governed by the DRC Act. The said objection is therefore clearly an afterthought to continue to perpetuate and prolong the proceedings.

14.5. The Landlords in their evidence and pleadings have sufficiently set out their intention to use the tenanted premises for office purpose and manufacturing purpose.

15. With respect to the submission of the Petitioner, Tenant that the withdrawal of the eviction proceeding i.e., E. No. 206/2011 under Section 14 (1) (e) of the DRC Act against the other Tenant, belies the *bona fide* need and precludes the Landlords from maintaining this eviction proceeding is again, without any merit.

15.1. *Firstly*, the subject matter of E. No. 206/2011 was a distinct portion



in the subject property consisting of the mezzanine floor and some open area in the rear portion on the ground floor.

15.2. *Secondly*, the said eviction petition was filed invoking three (3) independent and distinct grounds for eviction i.e., Section 14 (1) (b), Section 14 (1) (e) and Section 14 (2) of the DRC Act.

15.3. With respect to Section 14 (2) of the DRC Act, it is stated in the said eviction petition that the said tenant had already suffered an order dated 22.10.1983 under Section 14 (1) (a) of the DRC Act for non-payment of rent and in view of the second default, the landlords were now seeking the eviction of the said tenant under Section 14 (2) of the DRC Act.

15.4. In the aforesaid facts, the statement made by the landlords on 02.06.2012, withdrawing the ground of Section 14 (1) (e) of the DRC Act and electing to pursue the said eviction petition under Section 14 (2) of the DRC Act does not tantamount to any abandonment. This Court fails to understand what adverse inference can be drawn against the Landlords for pursuing the E. No. 206/2011 under a distinct ground.

16. In the aforesaid facts and circumstances, this Court finds no reason to interfere with the impugned eviction order dated 20.02.2020 and upholds the said order.

17. As noted hereinabove, the Petitioner, Tenant was liable to vacate the tenanted premises on 20.08.2020 upon expiry of the statutory period of six (6) months granted *vide* order dated 20.02.2020, however, the Tenant has successfully continued to occupy the premises without making any payment of use and occupation charges at market rate as per the dicta of the Supreme Court in *Atma Ram Properties Pvt. Ltd. v.*



*Federal Motors Pvt. Ltd., 2005 1 SCC 705 and Martin and Harris Private Limited And Another v. Rajendra Mehta And Others, (2022) 8 SCC 527.* The learned counsel for the Respondents, Landlords has submitted that the minimum use and occupation charges for the tenanted premises are Rs. 1,25,000/- per month, to which no denial was offered by the Petitioner.

17.1. It is accordingly directed that the Petitioner, Tenant herein shall vacate and hand over vacant peaceful possession of the premises to the Respondents, Landlords forthwith and not later than 15 days. It is directed that in the event the Petitioner, Tenants fails to handover the vacant and peaceful possession to the Respondents, Landlords within 15 days, the Petitioner shall become liable to pay use and occupation charges at Rs. 1 lakh per month w.e.f. 20.08.2020 i.e., the date on which the statutory period of six (6) months expired.

17.2. It is further directed that in case, the Petitioner, Tenant fails to vacate the premises within 15 days, the Respondents, Landlords will be at liberty to recover the possession of the tenanted premises and the use and occupation charges determined hereinabove in the execution proceedings.

18. In view of the findings of this Court that the Petitioner, Tenant raised frivolous pleas disputing the existence of the relationship of landlord and tenant between the parties and alleged existence of alternate accommodation, which was never substantiated, to prolong the eviction proceedings for 10 years, accordingly, the present petition is dismissed with costs of Rs. 50,000/- payable by the Petitioner, Tenant to the Respondents, Landlords within 15 days. In case of non-payment, the said



costs will be recovered by the Respondents, Landlords in the execution proceedings.

19. Pending Applications, if any, stands disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**JULY 04, 2023**/hp/sk/ms

