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

+ **RC.REV. 181/2020**

SHRI QUAZI MOHAMMED AHMED Petitioner

Through: Mr. Bahar U. Barqi, Advocate.
versus

MIOHAMMED SULTAN Respondent

Through: Mr. Anurag Singh, Advocate.

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Date of Decision: 12th May, 2023

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 11822/2023 (for restoration)

1. This is an application filed by the Petitioner, tenant, seeking recall of the order dated 22.02.2023, whereby the present eviction petition was dismissed in default for non-prosecution and the interim order dated 02.09.2020 was vacated.

2. In this application, the Petitioner seeks restoration of the revision petition as well as the interim order dated 02.09.2020.

3. For the reasons stated in the application, the same is allowed and the revision petition is restored to its original number.

RC.REV. 181/2020 & CM APPL. 11823/2023 (for stay)

4. This petition has been filed by the tenant assailing the order dated 17.02.2020 passed by the ACJ acting as Additional Rent Controller, South East District, Saket Courts, Delhi ('Trial Court') in Eviction petition No.

66/18, whereby the tenant's application seeking leave to defend was dismissed and an eviction order was passed in favour of the landlord in respect of a Shop, admeasuring 8ft. x 10ft., built up in premises bearing property No. 337-C/26, Batla House main Road, Okhla, Jamia Nagar, New Delhi-110025 ('tenanted premises').

5. As per the site plan of the ground floor of property bearing no. 337-C/26, Batla House main Road, Okhla, Jamia Nagar, New Delhi-110025 ('subject property') filed with the eviction petition, there are three (3) shops including the tenanted premises, ad-measuring 8ft. x 10ft. each, facing the main road and a hall, ad-measuring 33ft. x 26ft. 6 inches, in the rear portion (marked in green colour). For ease of reference the tenanted premises, marked in red colour is being referred to as 'Shop No. 2'; the shop adjoining the tenanted premises is being referred to as 'Shop No. 1', and the shop, marked in blue colour, is being referred to as 'Shop No. 3'.

Arguments of the Petitioner

6. The learned counsel for the Petitioner states that the Respondent herein has suitable alternate accommodation available with him and this material fact has not been duly considered by the Trial court in its impugned order.

7. *Firstly*, he places reliance on the site plan of the ground floor of subject property, wherein the tenanted premises are located, and states that on the ground floor itself there is a Shop No.3, ad-measuring 8 ft. x 10ft. (marked in blue colour) and a hall ad-measuring 33 ft. x 26 ft. 6 inches (marked in green colour), which were vacant and thus, available with the landlord at the time of filing of the eviction petition and therefore, the plea of *bona fide* need for the tenanted premises is not genuine.

7.1. He states that it has also come on record that during the pendency of

the eviction petition, the said Shop No.3 along with the hall has been let out by the landlord. He states that, however, this material fact has not been considered by the Trial Court in its impugned order.

7.2. He, however, fairly states that the assertion that in the subject property, the Shop No.3 delineated in blue colour and the hall in green colour are available to the landlord herein for his son's need were not pleaded in the leave to defend application and the pleadings thereto.

8. *Secondly*, he states that in the application seeking leave to defend, the Petitioner herein had enlisted the following four (4) alternate properties available with the landlord:

- i. Z-326/2, Okhla Main Road, Near Tikona Park, Jamia Nagar, New Delhi. ('Property No. Z-326/2 near Tikona Park')
- ii. 259/2, Noor Nagar, Jamia Nagar, New Delhi. ('Property No. 259/2 at Noor Nagar')
- iii. All Friends Apartment, Plot No. 32, Street No.11, West Zakir Nagar, New Delhi. ('All Friends Apartment')
- iv. Approx 100 Bigha Land on road in Ghosipur Village, Hapur Road, Meerut (UP). ('Meerut')

8.1.1. He states that he is not pressing the availability of property at Meerut since it is not within the territory of Delhi.

8.1.2. He states that he, however, specifically disputes that the Property No. 259/2 at Noor Nagar, is unavailable for the use of the landlord. He states that the landlord has sought to explain the unsuitability of the said property by stating that there is a dispute between the neighbours and therefore, he is unable to use the said property. He states that the said explanation offered by the landlord is not admitted by the tenant and therefore, the same gives rise to

a triable issue.

9. He states that the eviction petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 ('DRC Act') has been filed by the Respondent pleading the *bona fide* requirement of his son, who was then 51 years old and is presently 58 years old. He states that the plea of the Respondent that his 54-year-old son is dependent on him for the commercial accommodation is not plausible.

9.1. He further states that in the eviction petition, the landlord has pleaded that his son who was earlier employed with the India TV Group, has left the said employment and requires the tenanted premises for setting up a photo studio. He states that the Petitioner herein has specifically disputed in his application seeking leave to defend the assertion as regards the unemployment of the Respondent's son.

9.2. In this regard, he places reliance on a screenshot of the information available on India Today Media Institute wherein the Respondent's son is shown as a member of the guest faculty. He also relies upon the social media profile of the Respondent's son to allege that it continues to reflect his status as an employee with the India TV Group (though the said document has not been filed on record in the revision petition).

9.3. He states that, however, despite a specific objection raised disputing the unemployment status, the Trial Court has erroneously observed in the impugned eviction order that there is no challenge to the unemployment status of the Respondent's son. He states that the said finding of the Trial Court is contrary to the pleadings of the Petitioner.

9.4. He states that the assertion of the landlord that his son is unemployed is an issue which requires proof and necessarily the matter must be set down

for trial and the landlord must lead positive evidence of the erstwhile employer of the son to prove that the son has left the previous employment (TV Today Network).

9.5. He relies upon the judgment of the Supreme Court in *Precision Steel & Engineering Works and Anr. v. Prema Deva Niranjana Deva Tayal, (1982) 3 SCC 270*, and he also relies upon the order dated 11.04.2019, passed by the Supreme Court in Civil Appeal No. 3880/2019 titled as '*Mohd. Hannan & Anr. v. Abdul Basit*', to contend that the leave to defend should be allowed and a time bound trial be directed in the matter.

Submissions of the Respondent

10. In reply, learned counsel for the Respondents states that the Respondent, landlord, was 85 years old at the time of the filing of the petition. He states that the landlord has three sons and one daughter, however, Mr. Rafay Sultan, the son for whose *bona fide* need the present eviction petition has been filed resides with the landlord. He states in the year 2017, on account of the advanced age of the Respondent, Mr. Rafay Sultan started residing with the Respondent as his caregiver to take care of his personal needs. He states that Mr. Rafay Sultan resigned from his employment with the TV Today Group in the year 2017.

10.1. He states that after an objection was raised in the leave to defend disputing the resignation by Mr. Rafay Sultan and his status of unemployment, the Respondent to substantiate the said plea has placed on record before the Trial Court, a certificate dated 16.04.2019 issued by the erstwhile employer (TV Today Network Ltd.) of Mr. Rafay Sultan, by way of an application dated 04.05.2019. The said certificate confirm that Mr. Rafay Sultan resigned from the said organization in April, 2017. He states that the

said application was allowed by the Trial court *vide* order dated 17.05.2019. He states that after the said certificate was taken on record, no further dispute to the veracity of the said certificate was raised by the Petitioner herein before the Trial Court. He states that the veracity of the said certificate has not been disputed in the revision petition either. He states that therefore, the Trial Court correctly observed that there is no dispute to the unemployment status of Mr. Rafay Sultan.

10.2. He states that the issue of the *bona fide* need has been duly deliberated by the Trial Court in its impugned order and there is no infirmity in the findings of the Trial Court.

10.3. With respect to the availability of the alternate accommodation, he states that the Property No. Z-326/2 near tikona park, is a residential property and the Respondent herein is the owner of first floor, second floor and the third floor therein. He states that the said property is already let out to tenants and being a residential property is, therefore not an alternate or suitable accommodation which could be used for opening the photo studio of the son.

10.4. He states that with respect to the property at 'All Friends Apartment', the Respondents owns the ground floor and the first floor. He states that the said property is also a residential and has already been let out; and therefore, not suitable for the requirement of a commercial shop.

10.5. He states that with respect to the Property No. 259/2 at Noor Nagar, the same is lying vacant due to the disputes between the neighbours. He states that the Respondent owns the ground floor and the first floor in the said property, however, the said property as well is residential. He states that the fact that it is residential is evident from the photograph of the building placed by the Petitioner on record. He states that a bare perusal of the photographs

shows that the floors are apartments which shows that it can only be used for residential purpose.

10.6. He states that therefore, none of the three (3) properties referred to by the counsel for the Petitioner can constitute as a suitable alternate accommodation for opening a commercial shop as required by the Respondent's son.

10.7. He states that with respect to property in Meerut, the Respondent herein has no concern with the said property and therefore, the same is not material.

10.8. With respect to Shop No.3 (marked in blue colour) and hall (marked in green colour) in the site plan filed by the Petitioner located in the same subject property, he states that firstly the said vacant shop in the hall was let out by the Respondent on 10.03.2019 during the pendency of the eviction petition on account of his economic condition, as he required additional finances for his personal financial expenses. The Respondent has in his reply dated 30.09.2020, explained the circumstances in which he let out Shop No.3 and the hall during the pendency of the eviction petition. The said explanation reads as under:

"14. That during pendency of eviction petition the petitioner filed an application u/s 151 CPC through which the petitioner claimed that one another shop at the ground floor had been let out by the respondent, which is being used to run restaurant in the name and style of Kichies. The said application was replied to by the respondent that there are three shops at the front portion on the ground floor and it was submitted that the respondent had filed two eviction petitions for two shops on the ground floor, third shop was lying vacant, it was let out vide rent agreement dated 10.03.2019 upon the condition that lease could be terminated even before expiry of lease period by giving one month written notice. It was submitted by the respondent that the third shop was let out due to financial crises with the respondent and can be vacated after he succeeds in the two eviction petitions, which were filed before the Ld. ARC, South East, Saket Court, New Delhi."

(Emphasis Supplied)

10.8.1. He states that even otherwise the said Shop No.3 is not a suitable

alternate accommodation for the reason that the Respondent's son herein had right in the beginning sought advice from an architect who had prepared a plan for his studio wherein it was proposed that the shop would have 448 sq. ft. frontage. He states that the site plan prepared by the architect is duly placed on record along with the eviction petition.

10.8.2. He states that the Shop No.3 which is on one corner and is adjoining a staircase, does not meet the said requirement of frontage. He relies upon the judgment of the Supreme Court in *Anil Bajaj v. Vinod Ahuja, (2014) 15 SCC 610*, to states that the landlord has the prerogative to select the premises from where he proposes to carry out his business and tenant cannot dictate to the landlord that he must carry out business from a new premises.

10.9. He also relies upon the judgment of the Delhi High Court in *M/s A.K. Woollen Industries v. Shri. Narayan Gupta, (2017) SCC OnLine Del 11363*, to contend that the submissions of the learned counsel for the Petitioner that the Respondents must carry out business from upper floors is not tenable and judicial notice should be taken of the fact that ground floor is more commercially viable.

10.10. He states that the tenanted premises faces a 60 feet wide main road and that the tenanted premises are undoubtedly most suitable for opening a photo studio. He also places reliance on the judgment of the Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua, (2022) 6 SCC 30*, and more specifically paragraph No. 15, 18 and 20 therein).

10.11. He states that the Petitioner's submissions that the Respondent's son is gainfully employed is incorrect. He states that even otherwise the Supreme Court has held that even if the son was gainfully employed it would not disentitle the parent landlord from seeking recovery of possession to enable

his son to set up an independent business. In this regard he relies upon the judgment of *Bhupinder Singh Bawa v. Asha Devi, (2016) 10 SCC 209*.

Analysis and findings

11. This Court has considered the submission of the parties and perused the paper book.

Bona fide requirement

12. The landlord is presently 89 years old and his son who is presently 58 years old, is currently residing with him. In the opinion of this Court, the fact that the Respondent's son is a professional cameraman is not in dispute. The Respondent has placed on record a certificate issued by the Respondent's employer (TV Today Network Ltd.) confirming that Mr. Rafay Sultan resigned from their company as the head of camera production as on 10.04.2017.

13. This Court finds force in the submission of the learned counsel for the Respondent that the veracity of the said certificate, which was placed on record after the leave to defend was filed has not been disputed by the Petitioner before the Trial Court and this revision petition. In this background, the finding of the Trial Court that the unemployment status of the Respondent's son is unchallenged by the Petitioner herein, cannot be faulted with.

14. The submission of the learned counsel for the Petitioner that the unemployment status of the son of the Respondent is an issue which would necessarily require trial and leading of evidence, does not persuade this Court. The Respondent herein has placed on record credible facts and documents to substantiate the unemployment status.

15. This Court also finds force in the submission of the learned counsel for the Respondent that the social media profile on LinkedIn (which has not been

shown to this Court) of the Respondent's son may not have been updated after his resignation by oversight. He states that as on date, in fact, the Respondent's son has no access to the said profile as he has lost the login credentials and is unable to gain access. The findings of the Trial Court in this regard are correct and reads as under:

"18. The petitioner in the present case is retired from Jamia Milia University and is staying with his wife, son and his family. Petitioner is aged about 85 years and needs care and protection of the family. It is also not disputed that two sons of the petitioner are permanently staying in USA and he has only one son (who is also his attorney in the present case) to look after him and his wife in this old age. The son of petitioner is stated to have left his previous employment in April 2017 and a letter in this regard issued by the employer has also been placed on record by the petitioner. This aspect of present unemployment of the son of petitioner has remained unchallenged by the respondent / tenant.

Besides the aforesaid, petitioner has sought eviction of the respondent / tenant on the ground of requirement of the shop for his son to set up business of video coverage of marriages, parties and setting up of a photo studio. The son of petitioner has admittedly worked as camera head with his previous employer and as such, can reasonably and justifiably start such a business. Petitioner has also clarified the size of premises required for such a business. Petitioner is also justified in seeking eviction of the respondent from tenanted premises for the aforesaid purpose as in the circumstance discussed above, the son can be considered to be dependent upon his father particularly when he left his settled job to look after the ailing father and aged mother, and now seeking support of his father to set up his own business.

It is observed that petitioner has averred before the Court that how his son needs the tenanted premises to start new business. On the other hand, the respondent has failed to make any averment to show that there is no such bonafide requirement or that the factual situation is such that no bonafide requirement to start a new business can be said exist. Therefore, there is no reason for this Court to doubt the bonafide need portrayed by the petitioner. The need to start a new, separate business venture by a grown-up son who was so far employed outside, is natural, justified and bonafide. In the present facts, nothing has been shown to raise a doubt on such a bonafide need of the petitioner / his son. It is observed that parents in this country still consider themselves morally and socially obligated to provide maximum support possible for the growth and needs of their children and even grandchildren.

For this view support is also drawn from the observations made in

"Kirshan Kumar Gupta Vs. Krishan Shushan Gupta" 152 (2008) DLT 556
wherein it has been held that:

"In this country there is no social security system provided by State and the only social security is the security of the family. For gaining this social security of the family by the aged parents, they have to provide their sons and daughters the living accommodation, if available with them. The requirement of the landlord's sons and daughters and their families even if they are not financially dependent on him cannot be said to be unjustified or a mala fide requirement. If a daughter or son is taking care of the aged father/grandfather and his wife, it would be a bonafide necessity of the landlord, if he desires that his daughter or son should continue to live with him so that he continues to take care of him and his wife. Similarly, when it become difficult, due to old age, to move out, a person may desire that his sons and daughters visit him frequently and stay with him and the requirement of the landlord for this purpose cannot be said to be malafide but is a bonafide requirement. "

In the opinion of the Court, respondent / tenant failed to make any averment raising any contradiction or shortcoming in the averments and claims of the petitioner. In these circumstances, the ground of bonafide requirement raised by petitioner appears justified and respondent tenant could not make a case of a triable issue on the basis of averments made in the application / affidavit seeking leave to defend."

(Emphasis Supplied)

16. This Court has perused the finding of the Trial court; and the dicta of the judgment of **Krishan Kumar Gupta** (supra) cited by the Trial Court, which is squarely attracted in the facts of this case. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 statutorily recognises the fact that in India, children even after attaining the age of majority, continue to reside with their parents, take care of them in their old age and use the immovable properties of the parents. In these circumstances, the *bona fide* need of the son/daughter, who continues to reside with the old parents, arises in normal course of things in Indian society. In the present case there is no dispute that Mr. Rafay Sultan is residing with his parents.

17. In this regard, this Court would also take note of the fact that in the city

of Delhi, the cost of real estate is astronomical and many adults continue to remain dependent on their parents for residential and as well as commercial accommodation.

18. In the facts and circumstances, there is no allegation that the son Mr. Rafay Sultan owns any other commercial property in the city of Delhi which was available with him for opening his photo studio. This Court is therefore, of the opinion that the Trial Court's finding with respect to the existence of the *bona fide* need of the Respondent is correct and does not merit any interference.

Unavailability of the alternate suitable accommodation

19. With respect to the alternate accommodation, in the first instance, it would be relevant to refer to the findings of the Trial court which reads as under:

“19. Learned counsel for respondent has emphasized that the petitioner has many other properties available with him and can be utilized for starting the new business of his son. He has referred to four such properties in his application / affidavit seeking leave to defend. In reply thereto, petitioner has explained the status of all such properties.

As per the averments of respondent himself, the property of petitioner at Z-326/2, Okhla Main Road, Near Tikona Park, Jamia Nagar, New Delhi is already on rent. Similarly, property at Plot No. 32, Street No. 11, All Friends Apartment (where petitioner admitted to have one flat each at ground and fourth floor) is also admittedly on rent. In fact, petitioner has clarified in his reply that both these properties are residential in nature. As regards, property no. 259/2, Noor Nagar, Jamia Nagar, New Delhi, the same has been averred to be lying vacant. It has been clarified by the petitioner that the same is lying vacant for last six years as during its construction, some neighbourers raised objection and the construction could not be completed. The property is averred to be situated in a six feet gali and is residential in nature. These aspects clarified by petitioner have not been controverted by the respondent / tenant by any written reply.

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21. *In view of the aforesaid discussion and particularly the fact that the requirement of tenanted premises by the petitioner for use by his son for starting a new business has been found bonafide, and the fact that the properties referred to by respondent can by no means be considered an*

alternative suitable accommodation, it is concludingly observed that the respondent / tenant has failed to make any such convincing averment in the application / affidavit seeking leave to defend which may create or raise a triable issue thereby dis-entitling the landlord from seeking his eviction from the tenanted premises.”

(Emphasis Supplied)

20. From a bare perusal of the aforesaid, it is evident that the Trial Court has duly dealt with the alternate accommodation pleaded by the tenant in his leave to defend and in the opinion of this Court, the Trial Court has correctly appreciated the facts. The three (3) properties which were enlisted in the leave to defend are all admittedly residential properties, whereas, the *bona fide* need pleaded by the Respondent is for opening a (commercial) photo studio and for that purpose the residential properties cannot be considered an alternative or a suitable accommodation.

21. Learned counsel for the Petitioner sought to contend that the permissible user of the buildings in the Jamia Nagar area is not statutorily prescribed as per the Master Plan since it is an unauthorised colony and he, therefore, sought to suggest that the commercial activity can also be carried out from residential premises; and this Court can give a seal of propriety to the commercial use of the residential apartment.

21.1. The contention of the Petitioner that the property, which is admittedly built for residential purposes should be used for commercial purpose is without any merit and is contrary to the municipal law, which directs that property can be used only for the purpose for which it is built.

21.2. In the present case, the residential properties owned by the landlord as enlisted by the Petitioner are currently in occupation of tenants and for this reason additionally, the same cannot be considered to be available.

21.3. In any event the judgment relied upon by the Respondent of **AK Woollen Industries** (supra) also applies to the facts of this case and negates

the argument of the Petitioner, inasmuch as it is a fact that a ground floor premises for opening a new photo studio located on the main road is bound to attract more footfall than a photo studio located in a residential building on an upper floor.

21.4. Further, the Supreme Court in *Anil Bajaj v. Vinod Ahuja, (2014) 4 SCC (Civ) 469*, has held that it is a settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilised by him for the purpose of his business. The relevant extract of the said judgment reads as under:

"6. In the present case it is clear that while the landlord (Appellant 1) is carrying on his business from a shop premise located in a narrow lane, the tenant is in occupation of the premises located on the main road which the landlord considers to be more suitable for his own business. The materials on record, in fact, disclose that the landlord had offered to the tenant the premises located in the narrow lane in exchange for the tenanted premises which offer was declined by the tenant. It is not the tenant's case that the landlord, Appellant 1, does not propose to utilise the tenanted premises from which eviction is sought for the purposes of his business. It is also not the tenant's case that the landlord proposes to rent out/keep vacant the tenanted premises after obtaining possession thereof or to use the same in any way inconsistent with the need of the landlord. What the tenant contends is that the landlord has several other shop houses from which he is carrying on different businesses and further that the landlord has other premises from where the business proposed from the tenanted premises can be effectively carried out. It would hardly require any reiteration of the settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilised by him for the purpose of his business. Also, the fact that the landlord is doing business from various other premises cannot foreclose his right to seek eviction from the tenanted premises so long as he intends to use the said tenanted premises for his own business."

(Emphasis Supplied)

22. With respect to the Shop No.3 (delineated in blue colour) along with the hall (delineated in green colour) in the subject property, in the first instance this Court would like to take note that no such plea of the said premises being alternate or suitable was taken in the application seeking leave

to defend.

22.1. In the eviction petition, the Respondent, landlord, at Annexure A and more specifically para (i) therein had made full disclosure of the said shop and the hall. The availability of the said area was also to the knowledge of the Petitioner, tenant, since the tenanted premises are in the same property. However, in the leave to defend application, there was no suggestion that this was an alternate suitable accommodation.

22.2. In the opinion of this Court, this itself shall be sufficient to preclude the Petitioner from now raising the said additional plea.

22.3. However, the Respondent has sufficiently explained that the said Shop No.3 is unsuitable for the reason that he requires a 448 square feet frontage, which is possible only if the two shops i.e., Shop No. 1 and Shop No.2 (i.e., the tenanted premises), which are adjoining each other, in the left-hand corner become available to the Respondent. It has also come on record that the Respondent has sought eviction of the tenant from Shop no.1 and an eviction order has been passed in favour of the Respondent herein by the Trial court.

22.4. The explanation given by the Respondent in his reply dated 30.09.2020 with respect to the circumstances in which Shop No. 3 was let out during the pendency of the eviction petition is also persuasive.

23. In these facts and circumstances, this Court finds no infirmity in the findings of the Trial Court, which are duly deliberated and have taken into consideration all the evidence and the pleadings on record.

24. In this regard, the judgment of this Supreme Court in ***Abid-Ul-Islam*** (supra) and more specifically paragraph 15 and 23 therein, as relied upon by the Respondent is instructive and reads as under:

“15. Section 14(1)(e) carves out an exception to the regular mode of eviction. Thus, in a case where a landlord makes an application seeking possession of

the tenanted premises for his bona fide requirement, the learned Rent Controller may dispense with the protection prescribed under the Act and then grant an order of eviction. Requirement is the existence of bona fide need, when there is no other "reasonably suitable accommodation". Therefore, there has to be satisfaction on two grounds, namely, (i) the requirement being bona fide, and (ii) the non-availability of a reasonably suitable residential accommodation. Such reasonableness along with suitability is to be seen from the perspective of the landlord and not the tenant. When the learned Rent Controller comes to the conclusion that there exists a bona fide need coupled with the satisfaction that there is no reasonably suitable residential accommodation, the twin conditions mandated under Section 14(1)(e) stand satisfied.

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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."

25. In fact, with respect to the alternative accommodation also the said judgment in ***Abid-Ul-Islam*** (supra) is instructive. The relevant para 25 and para 26 reads as under.

"29. Section 14(1)(e) deals with only the requirement of a bona fide purpose. The contention regarding alternative accommodation can at best be only an incidental one. Such a requirement has not been found to be incorrect by the High Court, though it is not even open to it to do so, in view of the limited jurisdiction which it was supposed to exercise. Therefore, the very basis upon which the revision was allowed is obviously wrong being contrary to the very provision contained in Section 14(1)(e) and Section 25-B(8).

30. We have already discussed the scope of Section 14(1)(e) vis-à-vis Section 25-B (8) of the Act. Therefore, the mere existence of the other properties which are, in fact, denied by the appellant would not enure to the benefit of the respondent in the absence of any pleadings and supporting material before the learned Rent Controller to the effect that they are reasonably suitable for accommodation."

26. This revision petition was heard on 29.04.2023 and while passing the judgement, it was observed that arguments have not been heard on the Respondent's application CM APPL. 35640/2022. In the said applications, the Respondent is seeking fixation of use and occupation charges at Rs. 55,000/- per month. Accordingly, the matter was listed on 04.05.2023 and 12.05.2023 for arguments on the said application. However, the counsel for the Petitioner was not available to address arguments on 12.05.2023 and therefore, the Respondent prayed that he is not pressing for the relief in the said application to avoid any further delay. Accordingly, the said application is disposed of as not pressed as recorded in a separate order passed today.

27. In the aforesaid facts and circumstances, the present petition is dismissed and the eviction order dated 17.02.2020 is upheld. The pending applications, if any, are disposed of.

28. No order as to costs.

MANMEET PRITAM SINGH ARORA, J

May 12, 2023/msh/aa

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