



\$~49

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

+ **RC.REV. 231/2023 & CM APPL. 41754/2023**

SHASHI MALHOTRAPetitioner

Through:

versus

LEENA KAPOORRespondent

Through: Mr. Satish Sharma, Advocate

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

%

23.08.2024

1. The present revision petition is filed under section 25B (8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as “**the Act**”), to impugn the order dated 31.03.2023 passed by the court of Sh. Mayank Mittal, ACJ-CCJ-ARC, East, Karkardooma Courts, Delhi (hereinafter referred to as “**the trial court**”) in RC ARC bearing no. 26/2020.
2. The respondent/landlord filed an eviction petition under section 14(1)(e) read with section 25B of the Act, against the petitioner/tenant on the ground of *bona fide* need. The petitioner/tenant, after service of summons as per the Third Schedule, filed an application for leave to defend which was allowed by the trial court. After conclusion of trial, an eviction order was passed by the trial court vide impugned order dated 31.03.2023 in favour of the respondent/landlord in respect of the tenanted premises i.e. one shop in property bearing no.B-26, Jitar Nagar, Delhi-110051. The petitioner being aggrieved, filed the present petition.



3. The counsel for the respondent stated that the petitioner has handed over the vacant possession of the tenanted premises to the respondent and also executed the possession letter in accordance with law, as such the present petition is not maintainable.

4. This Court in the judgment dated 26.07.2024 passed in RC.REV. 284/2023 titled as **Om Prakash Ashok Kumar & Sons V Shri Ajay Khurana** held as under:-

7. The issue which needs Judicial consideration is whether the revision petition which is filed as per section 25B (8) of the Act to impugn the order of eviction as per section 25B of the Delhi Rent Control Act and if during the pendency of the revision petition, the possession is restored back to the landlord/owner, whether, in that eventuality the revision petition is maintainable or not.

8. In N. C. Daga V Inder Mohan Singh Rana 2003 (1) SCC 453 the respondent/landlord filed the petition for eviction primarily on the ground of *bona fide* requirement which was opposed by the petitioners/tenant. The eviction order was passed as per section 14(1)(e) of the Act in favour of the respondent/landlord with the direction that the possession of the tenanted premises shall not be taken before the expiry of 06 months in terms of section 14(7) of the Act. The revision petition before the High Court of Delhi was also dismissed by holding that no prima facie case was made out by the tenant. The Supreme Court dealt with the arguments raised on behalf of the landlord that the petition has become infructuous because the possession has already been taken in pursuant to the execution of the order passed by the rent controller. The Supreme Court has observed that in view of the admitted position that pursuant to the order passed by the rent controller, the possession has already been taken on execution of order permitting eviction did not examine the rival stand of the parties and accordingly dismissed the petition.

9. The Supreme Court in Vinod Kumar Verma V Manmohan Verma & Anr. in Civil Appeal No.5220-5221 of 2008 arising out of SLP (C) nos. 11268-11264/2008 vide order dated 19.08.2008 has also disposed of the appeals as infructuous as the possession of the



tenanted premises was taken over by the landlord.

10. This Court in various decisions has followed the decision given by the Supreme Court in **N. C. Daga V Inder Mohan Singh Rana**. The Co-ordinate Bench of this Court in **Poonam Bangia V Harbhagwan Dass Chandiramani** in RC. REV. no.16/2021 vide order dated 22.07.2021 after following the law laid down in **N. C. Daga V Inder Mohan Singh Rana**, dismissed the revision petition after observing that the landlord has received the possession of the tenanted premises through execution proceedings. Another Co-ordinate Bench of this Court in **Mange Ram V Rajesh Narain Goel**, in RC. REV. no. 147/2021, decided on 19.03.2024 after following **N. C. Daga V Inder Mohan Singh Rana** and **Vinod Kumar Verma V Manmohan Verma & Anr.**, in Civil Appeal nos. 5220-5221/2008 passed by the Supreme Court and in **Poonam Bangia V Harbhagwan Dass Chandiramani** in RC. REV no. 16/2021 passed by this Court as mentioned hereinabove also dismissed the revision petition as became infructuous due to the reason that the possession of the subject premises has been restored to the respondent/landlord. The same view was also taken by another Co-ordinate Bench of this Court in **Ram Avtar V Anuradha Shukla** in RC. Rev. Bearing no. 104/2021 vide order dated 03.11.2023, the revision petition was ordered to be dismissed as the possession of the tenanted premises has already been taken by the respondent/landlord in accordance with law.

12. In the present case as reflected from the order dated 10.05.2024, the possession of the tenanted premises has already been restored back to the respondent/landlord in execution of warrant of possession in accordance with law. This Court is also of the view that the present petition is not maintainable. Accordingly, the present petition, along with pending applications stands dismissed being infructuous.

5. Accordingly, in view of the above observations made in the judgment dated 26.07.2024 passed in RC.REV.284/2023 and as the possession of the tenanted premises is already restored back to the respondent in execution of warrant of possession in accordance with law, as such, the present revision petition has become infructuous, hence dismissed along with pending



application.

AUGUST 23, 2024/j/am

DR. SUDHIR KUMAR JAIN, J