



2024:DHC:10089



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

Date of Decision: 11.12.2024

+ **RC.REV. 217/2024, CM APPL. 46679/2024, CM APPL. 53362/2024, CM APPL. 53563/2024 & CM APPL. 53595/2024**

SMT NIRMALADEVI (D) THRU HER LR SMT ILASHREE NATH
GUPTAPetitioner

Through: Mr. Sameer Abhayankar, Mr. Rahul
Kumar, Advocates.

versus

SMT KAMLA GUPTARespondent

Through: Mr. Shekhar Gupta, Advocate.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The orders dated 09.10.2024, and 05.11.2024 reflect that it is the admitted case of both the parties that the possession of the back portion consisting of two rooms, situated on first floor, extended chajja and converted into kitchen, side balcony with common bathroom and latrine, and temporary shed/ barsati, situated on the second floor, forming part of the property bearing No. 4911, Plot No.98, Block-R, Ward No. XI, Darya Ganj, New Delhi-110002 [hereinafter referred to as "subject premises"] has been handed over to the Respondent/landlady through execution proceedings on 20.09.2024.

2. Learned Counsel for the Petitioner/tenant seeks to rely upon a



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judgment of the Division Bench of this Court passed in *Sham Lal Dhingra vs. Smt. Jaswant Kaur & Anr.*¹ to submit that the matter has not become infructuous

3. The issue of whether a Revision Petition is maintainable when the tenanted subject premises has been legally restored to the Respondent/landlady, either during or before the filing of the Revision Petition, has been addressed by the Supreme Court as well as by Coordinate Benches of this Court.

4. The Supreme Court in *NC Daga v. Inder Mohan Singh Rana*², dealt with a similar situation while dismissing a challenge by a tenant to a judgment passed by this Court upholding an order declining leave to defend passed by the learned Trial Court. The facts in the case were that, possession of the tenanted premises had been taken pursuant to an order passed by the Executing Court. The Supreme Court dealt with the similar arguments raised on behalf of the Respondent/landlord that the Petition has become infructuous pursuant to the possession having been taken.

5. After briefly examining the contention of the parties, the Supreme Court in *N.C Daga* case held that in view of the admitted position of possession being taken in execution proceedings, it was not necessary to go into the further details since such a decision would be a purely an academic question. The Supreme Court in *N.C Daga* case held as follows:

“6. In view of the admitted position that pursuant to the order passed by the Rent Controller, possession has been taken on execution of the

¹ 1980 SCC OnLine Del 22

² (2003) 1 SCC 453



*order permitting eviction, and absence of specific stand regarding implied consent it is, however, **not necessary to go into the finer details** and to examine the rival stand in the background of legal position as it would amount to rendering decision on a purely academic question. The appeal is, therefore, dismissed, without any order as to costs.*

[Emphasis Supplied]

6. A similar view was taken by the Supreme Court in ***Vinod Kumar Verma v. Manmohan Verma***³ where on an averment by the Respondent/landlord that possession of the premises has already been taken over, the Supreme Court held that nothing further survives in the Appeal and disposed the Appeals as being infructuous. The order being brief is extracted below:

“Leave granted.

At the time of hearing of these appeals, the learned counsel appearing on behalf of the landlord-respondent submits, on instructions, that the possession of the premises in question has already been taken over by the landlord-respondent. That being the position, these appeals have now become infructuous, which have been filed against the final judgment and order dt.25.02.2008 and 28.03.2008 passed by the High Court of Delhi at New Delhi in RCR No.49 of 2007 and C.M.No.119 of 2008 (Review) in RCR No.49 of 2007, by which the Revision Petition filed by the tenant/appellant was dismissed and order of eviction was affirmed. Since the possession has already been taken over by the landlord-respondent, in our view nothing survives in these appeals and accordingly, the appeals are disposed of as infructuous.

Interim order, if any, stands vacated.

There will be no order as to costs.”

[Emphasis Supplied]

7. Various Coordinate Benches of this Court have also similarly held that the tenant’s Petition have become infructuous in view of possession being taken. Reliance is placed on ***Neelam Sharma v. Ekant Rekhan***⁴ and

³ Civil Appeal Nos. 5220-5221 of 2008 order dated 19.08.2008

⁴ 2019 SCC Online Del 6487



Bhawani Shankar v Nand Lal and Ors.⁵

7.1 In ***Om Prakash Ashok Kumar & Sons v. Ajay Khurana⁶*** while relying on the ***NC Daga*** case and several other cases, a Coordinate Bench held as follows:

“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 Coordinate 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**, 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.

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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.”

[Emphasis Supplied]

⁵ 2021 SCC OnLine Del 4284

⁶ 2024 SCC OnLine Del 5228



8. This Court has in *Ashok Gupta & Anr. v. Deepak Rao*⁷ has taken the following view:

“18. The Eviction Petition was filed by the Respondent/landlord under Section 141(c) [sic. 14(1)(e)] of the Delhi Rent Control Act, 1958 setting out the requirement to open his law offices. The proceeding was contested by the Petitioner/tenant and an Eviction Order was passed by the learned Trial Court. Pursuant thereto, the Respondent/landlord recovered possession of the demised premises in accordance with law. As such the Revision Petition has been filed challenging the order of the learned Trial Court which has now gained fruition and was executed and has already been implemented through execution proceedings. In these circumstances, the Revision Petition has become infructuous.

19. As stated above, the jurisdiction of this Court exercising revisionary powers is limited and circumspect. The Petitioner/tenant did not initiate civil proceedings for recovery of possession, instead the present Revision Petition was filed. The Petitioner/tenant has not contended that Section 19 of the Delhi Rent Control Act, 1958 has been violated. Relying on the judgment of the Supreme Court in the *NC Daga* case and *Vinod Kumar Verma* case, this Court finds that this Petition has become infructuous and is accordingly dismissed.”

8.1 In addition, in **RC. REV. No. 104/2021** captioned as *Ram Avtar v. Anuradha Shukla* vide order dated 03.11.2023 this Court has held that once possession was taken over by the Respondent/landlord in accordance with law, the Petition becomes infructuous. The relevant extract of the *Ram Avtar* case reads as follows:

“4.1 This Court has considered this contention of the learned Counsel for the Petitioner/tenant. The Revision Petition has been filed challenging the order of the Trial Court which has now gained fruition, and has already been implemented through execution proceedings. In these circumstances, the Revision Petition has become infructuous.

5. Furthermore, this Court in various judgments held that once possession has been taken over by the Respondent/landlord in accordance with law, this petition becomes infructuous and in view thereof, nothing survives in the petition.”

⁷ 2024 SCC OnLine Del 7148



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[Emphasis supplied]

9. The present Petition has been filed impugning the order and judgment of the learned Trial Court which has directed vacation of the subject premises in issue. The jurisdiction of this Court is only revisionary in nature and limited in scope. The Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*⁸ while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the Delhi Rent Control Act, 1958 [hereinafter referred to as the “Act”] has held that this is a conscious omission. It was held that the High Court is not expected to substitute and supplant its view with that of the learned Trial Court, its only role is to satisfy itself on the process adopted. Thus, the scope of revisionary jurisdiction of this Court has been limited to examine if there is an error apparent on the face of the record or absence of any adjudication by the learned Trial Court, and it is only then should the High Court interfere. The Supreme Court has also cautioned from converting the power of superintendence into that of a regular first Appeal under revisionary jurisdiction. This has been elucidated at length by Supreme Court in *Abid-Ul-Islam* case in the following manner:

"Scope of revision

22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.

*23. The proviso to Section 25-B(8) **gives the High Court exclusive***

⁸ (2022) 6 SCC 30



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.

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25. The aforesaid decision has been recently considered and approved by this Court in Mohd. Inam v. Sanjay Kumar Singhal [Mohd. Inam v. Sanjay Kumar Singhal, (2020) 7 SCC 327 : (2020) 4 SCC (Civ) 107] : (SCC pp. 340-41, paras 22-23)

“22. This Court in Sarla Ahuja v. United India Insurance Co. Ltd. [Sarla Ahuja v. United India Insurance Co. Ltd., (1998) 8 SCC 119] had an occasion to consider the scope of proviso to Section 25-B(8) of the Delhi Rent Control Act, 1958. This Court found, that though the word “revision” was not employed in the said proviso, from the language used therein, the legislative intent was clear that the power conferred was revisional power. This Court observed thus : (SCC p. 124, para 11)

‘11. The learned Single Judge of the High Court in the present case has reassessed and reappraised the evidence afresh to reach a different finding as though it was exercising appellate jurisdiction. No doubt even while exercising revisional jurisdiction, a reappraisal of evidence can be made, but that should be for the limited purpose to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.’

It could thus be seen, that this Court has held, that the High Court while exercising the revisional powers under the Delhi Rent Control Act, 1958 though could not reassess and reappraise the evidence, as if it was exercising appellate jurisdiction, however, it was empowered to reappraise the evidence for the limited purpose so as to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.

23. Again in Ram Narain Arora v. Asha Rani [Ram Narain



Arora v. Asha Rani, (1999) 1 SCC 141] , this Court had an occasion to consider the aforesaid powers under the Delhi Rent Control Act, 1958. This Court observed thus : (SCC p. 148, para 12)

‘12. It is no doubt true that the scope of a revision petition under Section 25-B(8) proviso of the Delhi Rent Control Act is a very limited one, but even so in examining the legality or propriety of the proceedings before the Rent Controller, the High Court could examine the facts available in order to find out whether he had correctly or on a firm legal basis approached the matters on record to decide the case. Pure findings of fact may not be open to be interfered with, but (sic if) in a given case, the finding of fact is given on a wrong premise of law, certainly it would be open to the Revisional Court to interfere with such a matter.’

It was thus held, that though the scope of revisional powers of the High Court was very limited one, but even so in examining the legality or propriety of the proceedings before the Rent Controller, the High Court could examine the facts available in order to find out whether he had correctly or on a firm legal basis approached the matters on record to decide the case. It has also been held, that pure findings of fact may not be open to be interfered with, but in a given case, if the finding of fact is given on a wrong premise of law, it would be open to the Revisional Court to interfere with the same.”

[Emphasis supplied]

10. The provisions of the Act provide for a remedy of restoration of possession to a Petitioner/tenant in one situation, i.e., under Section 19 of the Act. In cases allowed under Section 14(1)(e) of the Act, the recovery of possession by a tenant under Section 19(1) of the Act can be obtained if the landlord re-let the whole or part of the subject premises within three years from the date of obtaining possession from the evicted tenant. Sub-section (2) of Section 19 of the Act further provides that where such premises are not occupied within two months by landlord or within three years from the date of possession by the person for whose benefit the premises are held, or are re-let to a person without permission of the Rent Controller within three years from the date of possession, the Rent Controller may direct the



landlord to put the tenant in possession or pay him such compensation as is deemed fit by the Rent Controller. Section 19 of the Act is set out below:

“19. Recovery of possession for occupation and re-entry.—(1) Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of section 14 [or under sections 14A, 14B, 14C, 14D and 21, the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises.

(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by the person for whose benefit the premises are held, within two months of obtaining such possession, or the premises having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (1) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be bona fide, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.”

10.1 The Supreme Court in ***Abid-Ul-Islam*** case has held that Section 19 of the Act gives a right of re-possession to the dispossessed tenant if landlord recovers possession under Section 14(1)(e) of the Act and thereafter, the landlord does not use the subject premises for the purpose that it was intended and set out in such Eviction Petition on which basis, an order for eviction was obtained by the landlord. The relevant extract is set out below:

*“19. Before a presumption is drawn, the landlord is duty-bound to place prima facie material supported by the adequate averments. It is only thereafter, the presumption gets attracted and the onus shifts on the tenant. The object of Section 14(1)(e) vis-à-vis Section 25-B has to be seen in the light of yet another provision contained under Section 19. **Section 19 gives a right to the dispossessed tenant for repossession if***



there is a non-compliance on the part of the landlord albeit after eviction, to put the premises to use for the intended purpose. Such a right is available only to a tenant who stood dispossessed on the application filed by the landlord invoking Section 14(1)(e) being allowed. Thus, Section 19 inter alia throws more light on the legislative objective facilitating a speedy possession. The object is also reflected in the proviso to Section 25-B(8), denying a right of appeal..”

[Emphasis Supplied]

11. The Eviction Petition was filed in the year 2017 by the Respondent/landlady, for her own use and for the use of her other family members dependent on her who are currently residing in the state of Uttar Pradesh however, intend to shift to Delhi for education and professional purposes and have no accommodation available in Delhi. The leave to defend/contest was filed by the Petitioner/tenant, which was allowed on 19.03.2018 by the learned Trial Court. After a full trial, the learned Trial Court passed the Order on 22.01.2024 [hereinafter referred to as “Impugned Order”] allowing the Eviction Petition.

12. The Petitioner/tenant disputed the landlord-tenant relationship and challenged the ownership of the Respondent/landlady. It is the contention of the Petitioner/tenant that Sh. Jagdish Rai Seenghal, father of Respondent/landlady had sold the front portion of the ground floor, rear portion of first and second floor to the Petitioner/tenant by an agreement to sell dated 30.12.1982 for a sum of Rs.3,00,000/- and thus, the Petitioner/tenant has become the exclusive owner of the front portion of the ground floor, rear portion of the first and second floor on 30.12.1982. It is the further contention of the Petitioner/tenant by a registered gift deed dated 12.06.2017, Smt. Prabha Aggarwal (deceased) and Smt. Pragya had become



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owners of the premises. However, the original agreement dated 30.12.1982 has not been produced either before the learned Trial Court or before this Court. Since the original agreement to sell has not been produced, the registered gift deed dated 12.06.2017 cannot create any right or interest in the property, if the donor herself had no right or title in the property.

12.1 The Respondent/landlady on the other hand to prove ownership and title over the subject premises has placed reliance on the Will dated 14.12.1987 executed by the mother of the Respondent/landlady Smt. Bhagwanti Devi, Will dated 26.09.1984 executed by father of the Respondent/landlady and a Memorandum of Partition in respect of Plot No. 98, R-Block, Darya Ganj, Delhi indicating partition of the subject premises. Reliance has also been placed on the rent receipts which have been filed by the Respondent/landlady indicating the existence of Landlord/tenant relationship between the predecessor in interest of the Petitioner/tenant and Respondent/landlord.

12.2. The other contention of the Petitioner/tenant is that the need of the Respondent/landlady and her family is not bona fide since the Respondent/landlady has expressed only her desire to shift to Delhi and the family of the Respondent/landlady is not dependent on her as she herself is an aged woman who requires the assistance for her daily chores. It was further contended that the bona fide requirement of the Respondent/landlady does not survive since the Eviction Petition was filed in the year 2017 and now the grandchildren for whom the Eviction Petition was filed must have completed the graduation, and thus the need does not survive. Further, it is



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contended that the rear side of the ground floor is lying vacant and can be utilized by the Respondent/landlady for her bona fide needs.

12.3. On the aspect of the availability of suitable alternate accommodation, it was contended by the Petitioner/tenant that the nameplate of the father-in-law of the Respondent/Landlady is still affixed on the property No. 1610, Madarsa Road, Kashmere Gate, Delhi [hereinafter referred to as “Property No.1610”], and the same has also been shown in a photograph. Further, the name of the Respondent/landlord appeared in the electoral roll of the concerned area where the property is situated. The Respondent/landlady, however, submits that the neither the Respondent nor any of her family members own any other property in Delhi. It is averred that property No. 1610, does not belong to the Respondent/landlady but belongs to one Smt. Rajni Atal. During the trial, evidence was led to substantiate that property No. 1610 does not belong to the Respondent/landlady, but that the father-in-law Respondent/landlady was the tenant of Smt. Rajni Atal in that property which was vacated by the family of the Respondent in October 2013.

13. The learned Trial Court after examining the evidence has held that the Respondent/landlady has been successful in proving that she has a better title to the subject premises than the Petitioner/tenant. It was further held that the Petitioner/tenant failed to prove any rights in the property since the alleged agreement to sell dated 30.12.1982 was not produced. The Court also held that the Respondent/landlady was able to prove that the Petitioner/tenant paid rent to the Respondent/landlord on the basis of the rent receipts.



13.1. On the aspect of bona fide need, the learned Trial Court held that the contention of the Petitioner/tenant is misconceived since it is well established that a family member residing with the landlord may not be financially dependent upon the landlord, but can be dependent for the purposes of accommodation. It was further held that no evidence was led to evidence that the family members of the Respondent/landlady had any separate properties in Delhi. Thus, the learned Trial Court gave its finding that there does not exist any suitable alternate accommodation with the Respondent/ landlady for her and her family members.

14. On the aspect of challenge to the ownership raised by the Petitioner/tenant, it is a settled law that all that a landlord has to prove is a better title than the tenant to seek eviction from the tenanted premises under Section 14 (1) (e) of the Delhi Rent Control Act, 1958 [hereinafter referred to as “Act”]. The Supreme Court in the case of **Swadesh Ranjan Sinha v. Haradeb Banerjee**⁹, in the context of ownership in an eviction petition, has clarified that:

“ 9. All that a plaintiff needs to prove is that he has a better title than the defendant. He has no burden to show that he has the best of all possible titles. His ownership is good against all the world except the true owner. The rights of an owner are seldom absolute, and often are in many respects controlled and regulated by statute. The question, however, is whether he has a superior right or interest vis-a-vis the person challenging it....”

[Emphasis supplied]

14.1 This Court while discussing the issue of ownership in a Petition filed under Section 25-B(8) of the Act in a case titled **R.S. Chadha v. Thakur**

⁹ (1991) 4 SCC 572



*Dass*¹⁰ has held that what a landlord has to prove is a better title than the tenant to seek his eviction for the tenanted premises. The Court relied on the judgment of the Supreme Court in the case of *Shanti Sharma vs. Ved Prabha*¹¹ to hold that the term owner has to be understood in the context of the background of the law. The relevant extract reads as follows:

“10.1 It is settled law that what a landlord has to prove is a better title than the tenant to seek his eviction from a tenanted premises under Section 14(1)(e) of the Act. The Supreme Court in the case of Shanti Sharma v. Ved Prabha has held as follows:

“14. The word “owner” has not been defined in this Act and the word ‘owner’ has also not been defined in the Transfer of Property Act. The contention of the learned Counsel for the appellant appears to be that ownership means absolute ownership in the land as well as of the structure standing thereupon. Ordinarily, the concept of ownership may be what is contended by the counsel for the appellant but in the modern context where it is more or less admitted that all lands belong to the State, the persons who hold properties will only be lessees or the persons holding the land on some term from the government or the authorities constituted by the State and in this view of the matter it could not be thought of that the legislature when it used the term “owner” in the provision of Section 14(1)(e) it thought of ownership as absolute ownership. It must be presumed that the concept of ownership only will be as it is understood at present. It could not be doubted that the term “owner” has to be understood in the context of the background of the law and what is contemplated in the scheme of the Act. This Act has been enacted for protection of the tenants. But at the same time it has provided that the landlord under certain circumstances will be entitled to eviction and bona fide requirement is one of such grounds on the basis of which landlords have been permitted to have eviction of a tenant. In this context, the phrase “owner” thereof has to be understood, and it is clear that what is contemplated is that where the person builds up his property and lets out

¹⁰ 2024 SCC OnLine Del47

¹¹ (1987) 4 SCC 193



to the tenant and subsequently needs it for his own use, he should be entitled to an order or decree for eviction the only thing necessary for him to prove is bona fide requirement and that he is the owner thereof. In this context, what appears to be the meaning of the term “owner” is vis-a-vis the tenant i.e. the owner should be something more than the tenant. Admittedly in these cases where the plot of land is taken on lease the structure is built by the landlord and admittedly he is the owner of the structure....”

[Emphasis supplied]

15. On the other contention that the Respondent/landlord may use the rear portion of her property instead of the subject premises, the same is without merit. The Supreme Court in the case of **Prativa Devi (Smt) v. T.V. Krishnan**¹² has held that tenant cannot dictate the terms of use of a property to a landlord and that the landlord is the best judge of his requirements. It is not for the Courts to dictate in what manner and how a landlord should live. This Court while relying on the **Prativa Devi case** has in the **R.S. Chadha (thr. SPA) case** held:

“13.1 It is settled law that the tenant cannot dictate the terms of use of a property to a landlord and that the landlord is the best judge of his requirements. It is not for the Courts to dictate in what manner and how a landlord should live. It is also not for the Courts to adjudicate that the landlord has a bonafide need or not. The Courts will generally accept the landlords need as bonafide. The Supreme Court in the case of Prativa Devi (Smt) v. T.V. Krishnan [(1996) 5 SCC 353] has directed:

“2. The proven facts are that the appellant who is a widow, since the demise of her husband late Shiv Nath Mukherjee, has been staying as a guest with Shri N.C. Chatterjee who was a family friend of her late husband, at B-4/20, Safdarjung Enclave, New Delhi. There is nothing to show that she has any kind of right whatever to stay in the house of Shri Chatterjee. On the other hand, she is

¹² (1996) 5 SCC 353



there merely by sufferance. The reason given by the High Court that the appellant is an old lady aged about 70 years and has no one to look after her and therefore she should continue to live with Shri Chatterjee, was hardly a ground sufficient for interference. **The landlord is the best judge of his residential requirement. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own.** The High Court is rather solicitous about the age of the appellant and thinks that because of her age she needs to be looked after. Now, that is a lookout of the appellant and not of the High Court. We fail to appreciate the High Court giving such a gratuitous advice which was uncalled for. **There is no law which deprives the landlord of the beneficial enjoyment of his property. We accordingly reverse the finding reached by the High Court and restore that of the Rent Controller that the appellant had established her bona fide requirement of the demised premises for her personal use and occupation, which finding was based on a proper appreciation of the evidence in the light of the surrounding circumstances.**”

13.2 In any event, **it is only the Respondent/landlord and his family who can decide what is sufficient space as per their needs and requirements. Sufficiency of residential accommodation for any person would essentially be dependent on multiple factors, including his living standard and general status in society.** In view of the fact that admittedly the Respondent/landlord has a large family, it is not open to the Petitioner/tenant to contend that requirement of 6 rooms as pleaded by the Respondent/landlord, is not bonafide.

13.3 The Trial Court has dealt with the sufficiency of accommodation of the Respondent/landlord in the Impugned Order. This Court finds no reason to impugn these findings.”

[Emphasis supplied]

16. As discussed above, the learned Trial Court has adequately addressed all these issues. In addition, subsequent to the passing of the Impugned Order, a review petition was also filed by the Petitioner/tenant before the



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learned Trial Court which was also dismissed on 06.05.2024.

17. In view of the foregoing, no ground to interfere with the Impugned Order has been made out by the Petitioner/tenant before this Court in the Revision Petition.

18. In any event as discussed above, after the passing of the Impugned Order, the Respondent/landlady recovered possession of the subject premises in accordance with law. As such the Revision Petition has been filed challenging the order of the learned Trial Court which has now gained fruition as was executed and has already been implemented through execution proceedings. This was recorded by the Court in its orders dated 09.10.2024 and thereafter on 05.11.2024. In these circumstances, the Revision Petition has become infructuous.

19. As stated above, the jurisdiction of this Court exercising revisionary powers is limited and circumspect. The Petitioner/tenant did not initiate appropriate civil proceedings for recovery of possession of the subject premises, as per the records. The Petitioner/tenant has also not contended that Section 19 of Act has been violated. Relying on the judgment of the Supreme Court in the *NC Daga* case and *Vinod Kumar Verma* case, this Court finds that this Petition has become infructuous and is accordingly dismissed.

20. Parties will act based on digitally signed copy of the order.

21. For the reasons as stated above, this Petition is dismissed. All pending Applications stand closed.



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22. However, costs in the sum of Rs.25,000/- shall be payable directly to “*Bar Council of Delhi-Indigent and Disabled Lawyers Account*” by the Petitioner. Proof of costs shall be filed by the Petitioner with the Registry.

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[Click here to check corrigendum, if any](#)