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

Date of Decision: 09.10.2024

+ **CM(M) 3227/2024 & CM APPL. 48749-48751/2024**

SMT. NIRMALA DEVI (D) THROUGH HER LR SMT. ILASHREE
NATH GUPTAPetitioner

Through: Mr. Atul Agarwal (AR of Petitioner)

versus

SMT KAMLA GUPTARespondent

Through: Mr. Shikhar Gupta & Mr. Shashak
Upadhyay, Advocates.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. This Petition was listed before the Court pursuant to an order dated 27.08.2024 passed by a Coordinate Bench of this Court and was listed along with RC. REV. 271/2024.

2. The present Petition impugns the order dated 09.07.2024 [hereinafter referred to as the "Impugned Order"] passed by learned District and Sessions Judge (Central) sitting as Rent Control Appellate Tribunal, Tis Hazari Courts, Delhi.

3. Briefly the facts are:

3.1 By the Impugned Order, the Application filed by the Respondent



under Section 3 of the Limitation Act, 1963 [hereinafter referred to as the “Limitation Act”] seeking dismissal of the Appeal was allowed and the Appeal was found to be barred by limitation.

3.2 The Petitioner challenged an order dated 27.07.2022 whereby the Petitioner was arrayed as a legal representative of the sole Respondent in Eviction case no. E-584/2017. An Appeal was preferred against the order dated 27.07.2022 by the Petitioner on 09.05.2024. In the interregnum period, the Petitioner had filed a Revision Petition before the High Court. The Revision Petition was dismissed as withdrawn by the Petitioner on 15.04.2024.

3.3 Thereafter, the Appeal was filed before the learned Trial Court. It was contended by the Petitioner that the learned Trial Court has wrongly arrayed the Petitioner as a party to the Eviction proceedings. During the proceedings, the Respondent filed an Application for dismissal of the Appeal as being barred by limitation under Section 3 of the Limitation Act. This Application was allowed by the learned Trial Court, which is the order impugned before the Court.

4. Mr. Atul Aggarwal, the power of attorney holder of the Petitioner, who appears in person [henceforth for the purpose of this Order called the counsel for the Petitioner] submits that the Impugned Order suffers from an infirmity. He submits that Section 14 of the Limitation Act is not applicable in the present case since the heading of Section 14 of the Limitation Act is only with respect to matters which are being adjudicated “without



jurisdiction". It is thus contended that the learned Trial Court has wrongly applied the provisions of Section 14 of the Limitation Act while deciding the Application filed by the Respondent. Reference is drawn to the heading of Section 14 of the Limitation Act as appearing in the statute book which reads as follows:

"14. Exclusion of time of proceeding bona fide in court without jurisdiction —"

5. Learned Counsel for the Respondent, on the other hand, contends that the learned Trial Court, after an examination of the documents on record, found that there is inordinate delay of 614 days in filing the Appeal challenging the Impugned Order, and before the learned Trial Court, there was a submission made by the Petitioner that the time spent in litigation before another forum is to be excluded in calculation of limitation.

5.1 Learned Counsel for the Respondent submits that pursuant to execution proceedings filed by the legal heirs of the Respondent, the Executing Court, in Execution No. 12EX2517/24 captioned as ***Kamala Gupta v. Nirmala Nath Gupta Since Deceased through LRs, Ms. Illashree Nath Gupta***, on 24.08.2024, directed appointment of a bailiff, and thereafter, on 20.09.2024, the possession of the subject premises has been taken over by the bailiff.

5.2 Learned Counsel for the Respondent further submits that the Petitioner was pursuing a wrong remedy before a Coordinate Bench of this Court, and this was for an extended period of time. The Court permitted him to withdraw the case noting that the issue of maintainability was raised by



the predecessor Bench in its order dated 01.09.2022, on the first date itself.

6. The submissions of the Petitioner with respect to the non-applicability of Section 14 of the Limitation Act are without merit. The Supreme Court in ***H.M Kamaluddin Ansari & Co. v. Union of India & Ors.***¹ has set out that headings prefixed to sections are like a preamble which can be used to clarify a doubtful expression but cannot be used to give a different effect to clear words in a section, where there cannot be any doubt as to the ordinary meaning of the words. The relevant extract is below:

“27. The headings prefixed to a section or a group of sections in some modern statutes are regarded as preambles to those sections. They cannot control the plain words of the statutes but they may explain ambiguous words. The view is now well settled that the headings or titles prefixed to a section or a group of sections can be referred to in determining the meaning of doubtful expressions. It is true that the court is entitled to look at the headings in an Act of Parliament to resolve any doubt they may have as to ambiguous words. The law is clear that those headings cannot be used to give a different effect to clear words in the section where there cannot be any doubt as to the ordinary meaning of the words. The golden rule is that when the words of a statute are clear, plain and unambiguous, that is, they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of the consequences. The duty of a Judge is to, expound and not to legislate, is a fundamental rule...”

[Emphasis supplied]

7. Learned Counsel for the Petitioner submits that the provisions of Section 14 of the Limitation Act are not applicable. As set out above, it is contended by the Petitioner that Section 14 of the Limitation Act would only apply where the Court does not have a jurisdiction and since this Court did have jurisdiction, the Section is inapplicable.

¹ (1983) 4 SCC 417



7.1 The contention of the Petitioner is misconceived. Section (1) and (2) of Sub-section 14 of the Limitation Act itself provides that in addition to setting out a defect in jurisdiction, other causes of like nature are also governed by its provision. Section 14 of the Limitation Act is reproduced below for ready reference:

"14. Exclusion of time of proceeding bona fide in court without jurisdiction.

*(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, **where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.***

*(2) In computing the period of limitation for any application, the time during which the applicant has been **prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal** or revision, against the same party for the same relief shall be excluded, where such proceeding **is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.***

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."



[Emphasis supplied]

7.2 Thus, the Section itself provides that a defect of jurisdiction or other cause of such a nature for a proceeding to be applicable therein. The Supreme Court in *Union of India & Ors. v. West Coast Paper Mills Ltd. & Anr.*², has even clarified that Section 14 of the Limitation Act, should be interpreted liberally and the phrase “*other cause of like nature*” extends beyond jurisdictional defects.

8. Section 14 of the Limitation Act, which has been reproduced above sets out that in computing the period of limitation, where a plaintiff has been prosecuting any other civil proceeding, whether in Appeal or Revision otherwise, the time for prosecuting such proceeding shall be excluded for the purposes of limitation. The Section also sets out certain pre-requisites for the exclusion of time which include due diligence and undertaking prosecution in good faith before another Court.

9. The Supreme Court in *Consolidated Engineering Enterprises vs. Principal Secretary, Irrigation Department & Ors.*³, while elaborating on the principles of case of *Madhavrao Narayanrao Patwardhan vs. Ramkrishnagovind Bhanu*⁴, has held that in order for Section 14 of the Limitation Act to be applicable, the following conditions need to be satisfied:

“21.....

(1) *Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;*

² (2004) 3 SCC 458

³ (2008) 7 SCC 169

⁴ AIR 1959 SCR 564



- (2) *The prior proceeding had been prosecuted with due diligence and in good faith;*
- (3) *The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;*
- (4) *The earlier proceeding and the latter proceeding must relate to the same matter in issue and;*
- (5) *Both the proceedings are in a court”*

10. A Division Bench of this Court in ***U.P. Jal Vidyut Nigam vs. C.G. Power & Industrial Solution Ltd.***⁵, while discussing the ***Madhavrao Narayanrao*** case and ***Consolidated Engineering*** case, has held that all five pre-conditions of Section 14 of the Limitation Act, as set out above, need to co-exist in the following terms:

“17. It has further been held in the Consolidated Engineering case that to attract the provisions of Section 14 of the Limitation Act, all five pre-conditions have to co-exist. It is not enough if only some of these pre-conditions are present, all these must exist side by side.”

[Emphasis supplied]

10.1 In order to fall under Section 14 of the Limitation Act, a party is required to prosecute the prior proceeding in good faith and with due diligence in a Court. The Division Bench of this Court in ***U.P. Jal Vidyut*** case held that good faith is defined under the provisions of Section 2(h) of the Limitation Act as an act which is done with due care and attention. While interpreting ***Madhavrao Narayanrao*** case, the Court further held that previously instituted suit should have been prosecuted with due diligence. The relevant extract is set out below:

“18. So what is good faith? The Supreme Court in Madhavrao Narayanrao case has clarified *that since the Limitation Act provides for its own definition of good faith, the definition as contained in General Clauses Act, 1897 would not apply.*

⁵ 2023 SCC OnLine Del 7916



19. Good faith is defined in Section 2(h) of the Limitation Act as:

“2. Definitions. - In this Act, unless the context otherwise requires-

.... (h) “good faith”— **nothing shall be deemed to be done in good faith which is not done with due care and attention;**”

[Emphasis is ours]

20. The Madhavrao Narayanrao case while discussing the term ‘due care and attention’ in the context of Section 14 of the Limitation Act has held that what **needs to be seen is whether the Plaintiff (Appellant herein) has brought on the record any evidence to show that he was prosecuting the previously instituted suit with due diligence.**

21. The measure of due diligence and prosecuting in good faith is to be decided on the facts of each case. The Supreme Court in the Consolidated Engineering case has explained this principle in a succinct manner below:

“31. To attract the provisions of Section 14 of the Limitation Act, five conditions enumerated in the earlier part of this judgment have to co-exist [Ed. : See para 21, above.]. **There is no manner of doubt that the section deserves to be construed liberally. Due diligence and caution are essential prerequisites for attracting Section 14.** Due diligence cannot be measured by any absolute standards. **Due diligence is a measure of prudence or activity expected from and ordinarily exercised by a reasonable and prudent person under the particular circumstances.** The time during which a court holds up a case while it is discovering that it ought to have been presented in another court, must be excluded, as the delay of the court cannot affect the due diligence of the party. Section 14 requires that the prior proceeding should have been prosecuted in good faith and with due diligence. **The definition of good faith as found in Section 2(h) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done with due care and attention.** It is true that Section 14 will not help a party who is guilty of negligence, lapse or inaction. However, there can be no hard-and-fast rule as to what amounts to good faith. It is a matter to be decided on the facts of each case. It will, in almost every case be more or less a question of degree. The mere filing of an application in wrong court would not prima facie show want of good faith. There must be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party. In the light of these principles, the question will have to be considered whether the appellant had prosecuted the matter in other courts with due



diligence and in good faith."

[Emphasis supplied]

11. The learned Trial Court has relied upon the judgment of this Court in ***T. Venkat Ram Reddy v. Blue Chip Capital Services Pvt. Ltd. & Anr.***⁶ and ***Nina Garments (Pvt.) Ltd. v. Unitech Ltd.***⁷, and reached the conclusion that the essential ingredients of Section 14 of the Limitation Act are lacking.

12. The Petitioner contended before the learned Trial Court that the High Court permitted the Petitioner to withdraw the Revision Petition "*with liberty to institute appropriate legal proceedings in accordance with law*" and that liberty given by the High Court meant that the delay stands condoned. The learned Trial Court examined the order dated 15.04.2024 passed by a Coordinate Bench of this Court and found that the order was clear and specific but was wrongly interpreted by the Petitioner.

13. The order dated 15.04.2024 passed by a Coordinate Bench is brief and sets out that the High Court on the very first date itself by order dated 01.09.2022, had issued notice limited to the question of maintainability of those proceedings. The relevant extract of order dated 01.09.2022 is set out below:

***"RC.REV. 209/2022 & CM APPL. 38222/2022
RC.REV. 210/2022 & CM APPL. 38253/2022***

Issue notice on the maintainability of the present petition.
***Learned counsel, as aforesaid, appears and accepts notice
on behalf of the respondent.***

⁶ 2017 SCC OnLine Del 8339

⁷ 2012 SCC OnLine Del 5012



List on 18.10.2022.”

[Emphasis supplied]

13.1 Despite the same, the Petitioner chose to continue with the proceedings before the High Court for a period of about 19 months until 15.04.2024 when the proceedings were dismissed as withdrawn by the Petitioner.

14. In the present case, the Petitioner sought challenge to an order passed by the learned Trial Court by filing an Appeal before the Appellate Court (District Judge) after a gap of almost 22 months (July, 2022 to May, 2024). This period was spent pursuing a wrong remedy before the High Court.

14.1 In order to apply the principles as set out in the *Madhavrao Narayanrao* case and *Consolidated Engineering* case to extend the period of limitation available to the Petitioner, it has to be seen if prior proceedings were prosecuted with due diligence and in good faith by the Petitioner. The conduct of the Petitioner however shows exactly the opposite. The Petitioner continued to prosecute wrongful remedy before this Court inspite of a challenge on the maintainability of such remedy made by the Court on the very first date itself. In fact, as seen from the order, the Court only issued notice on the limited aspect of maintainability of the said Petition on 01.09.2022. Thereafter, the matter could not be heard until 15.04.2024 when it was dismissed as withdrawn by the Petitioner.

15. The learned Trial Court found that the Petitioner had not acted in a *bona fide* manner or with due diligence. In addition, no pleadings *qua* the



exclusion of time as is set out in Section 14 of the Limitation Act were raised before the learned Trial Court. In these circumstances, the learned Trial Court allowed the Application filed by the Respondent and dismissed the present Appeal.

16. This Court finds no infirmity with this finding. An examination of the record shows that the pre-requisites applicable for extension of time under Section 14 of the Limitation Act do not show the co-existence of all five statutory pre-requisites. The prior proceeding was not diligently pursued by the Petitioner. Thus, the Impugned Order rightly held that Appeal to be barred by limitation.

17. In addition, this Court has also examined the order dated 27.07.2022 passed by the learned Trial Court which was impugned by the Petitioner by filing the Appeal before the learned District Judge. As stated above, the Respondent had filed Eviction proceedings against the mother of the Petitioner under Section 14(1)(e) of the Delhi Rent Control Act, 1958. During the pendency of these proceeding, the mother of the Petitioner passed away, which lead to the Respondent filing an Application to make Petitioner/the daughter and the only legal heir of the tenant, as a party to the proceedings. A Reply to this Application was filed by the Petitioner objecting to the impleadment. The stand of the Petitioner as taken before the learned Trial Court was that although she is the only child of late Smt. Nirmala Devi, her mother on 12.06.2017 transferred the rights of the demised premises by a Gift Deed in favour of her younger sister Smt. Prabha Aggarwal and her daughter in law Ms. Pragya Aggarwal and that



they are true and registered owners of the property at present. It was thus contended by the Petitioner that she could not be impleaded as a legal heir of her mother in the present Eviction Petition. The learned Trial Court held that since the right to sue survives on the death of a tenant, the landlord is bound to make the legal representative(s) as a party to proceed with the Eviction Petition.

18. The Petitioner is admittedly the daughter of the deceased tenant who passed away on 08.02.2021. The Petitioner has been prosecuting proceedings both before the learned Trial Court and this Court through her special power of attorney holder, for several years. These include filing of Review Petition no. 14/2014 under Section 25(B)(9) of the Delhi Rent Control Act, 1958⁸ seeking to challenge the judgment dated 22.01.2024 passed in Eviction Petition. The only ground of challenge raised by the Petitioner was that the subject premises had been purchased from its original owner in the year 1982 and transferred through a gift deed to her younger sister and daughter-in-law/Smt. Prabha Agarwal. A copy of the agreement to sell dated 30.12.1982 was relied upon by the Petitioner. The learned Trial Court examined both the agreement to sell dated 30.12.1982 and the gift deed dated 12.06.2007 in its judgment dated 22.01.2024. By its order dated 19.03.2018, the Application for leave to defend filed by the Petitioner was allowed and a complete trial was conducted in the matter. The learned Trial Court examined the agreement to sell dated 30.12.1982 and the evidence in

⁸ Although copy of the Review Petition does not form part of the record in this case, it was annexed at Annexure 2 in the connected matter being RC REV. 217/2024 captioned Smt. Nirmala Devi (D) Thru Her LR Smt Ilashree Nath Gupta v. Smt Kamla Gupta



its support and held that it did not create any right in favour of the Petitioner. Thus, it was held that the gift deed dated 12.06.2007 which purported to transfer rights from the late Smt. Nirmala Devi to her sister/daughter-in-law of the sister was also void.

19. In any event, since admittedly the Petitioner has no right, title or interest in the subject property, the challenge by the Petitioner to being impleaded in the Eviction Petition as legal heir, would not affect the rights of the Petitioner in any manner.

20. Concededly, the possession of the demised premises has been obtained by the Respondent in accordance with law. This Court in its judgment dated 04.10.2024 in RC. REV. 419/2018 captioned **Ashok Gupta & Anr. v. Deepak Rao**, has after examining the law as set down by the Supreme Court in **NC Daga v. Inder Mohan Singh Rana**⁹ and **Vinod Kumar Verma v. Manmohan Verma**¹⁰ has held that once possession has been taken in accordance with law, the Revision Petition becomes infructuous. The relevant extract is below:

“10. The issue of whether a Revision Petition is maintainable when the tenanted premises have been legally restored to the Respondents/landlord, 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.

11. The Supreme Court in NC Daga v. Inder Mohan Singh Rana, 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

⁹ (2003) 1 SCC 453

¹⁰ Civil Appeal Nos. 5220-5221 of 2008 judgment dated 19.08.2008



that pursuant to order passed by the learned Trial Court, possession 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 Respondents/landlord that the Petition has become infructuous pursuant to the possession having been taken.

12. After briefly examining the contention of the parties, the Supreme Court 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 academic question. The Supreme Court 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 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]

13. A similar view was taken by the Supreme Court in **Vinod Kumar Verma v. Manmohan Verma** 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 filed 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]

*14. 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 and Bhawani Shankar v Nand Lal and Ors.***

*14.1 In **Om Prakash Ashok Kumar & Sons v. Ajay Khurana** 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 Coordinate 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]

15. This Court in various orders including Order dated 14.12.2023 passed in **RC. REV. 335/2019** captioned **Ajay Kumar v. Ranbir Singh & Ors.**, Order dated 06.12.2023 passed in **RC.REV. 52/2023** captioned **Govardhan Lal v. Smt. Vidya Rani (Deceased) Through Lrs** and Order dated 03.11.2023 passed in **RC. REV. 104/2021** captioned **Ram Avtar v. Smt. Anuradha Shukla** has held that when a Revision Petition has been filed challenging an order of learned Trial Court which has now gained fruition and has already been implemented through execution proceedings, in such circumstances, the Revision Petition has become infructuous. In addition, it was 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.”

[Emphasis supplied]

16. 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 while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the Act has held that this is a conscious omission. 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 v. Inder Sain Dua* 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 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 factfinding 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 is ours]

17. The provisions of the Act provide for a remedy of restoration of possession to a Petitioner/tenant in one situation and, 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) can be obtained if the landlord re-let the whole or part of the 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 or within three years from the date of possession, 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 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.”

17.1 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]

18. The Eviction Petition was filed by the Respondent/landlord under Section 141(c) 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



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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.”

21. In view of the foregoing discussion, no infirmity is found in the Impugned Order.

22. The Petition and all pending Applications stand dismissed.

TARA VITASTA GANJU, J

OCTOBER 9, 2024/ ha