



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

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Date of Decision: 25.03.2025

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RC.REV. 39/2025 and CM. 5539/2025

CHETAN NAGI

.....Petitioner

Through: Ms. Azka Ahmed, Advocate.

versus

ASHWANI KUMAR CHADDHA AND ANR

.....Respondents

Through: Mr. Rambhakt Agarwal, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present revision petition filed under Section 25-B (8) of the Delhi Rent Control Act 1958 (hereinafter, referred to as '*DRC Act*'), the petitioner seeks to assail the orders dated 07.03.2024 and 16.01.2025 passed by the Court of Additional Rent Controller, Tis Hazari Courts, Delhi in eviction petition, bearing RC ARC No.414/2023, titled 'Ashwani Kumar Chaddha and Anr. v. Chetan Nagi'.

Vide order dated 07.03.2024, an eviction order was passed against the petitioner herein for recovery of tenanted premises, i.e., one shop on the ground floor of property bearing no. 2383-84, *Chashma Building, Ballimaran, Delhi-110006* (hereinafter, '*subject property*'). Thereafter, the petitioner filed a review application against the aforesaid order, which came to be dismissed vide order dated 16.01.2025.

2. The facts in a nutshell are that the eviction proceedings came to be filed on 06.06.2023 for eviction with respect to the subject property claiming



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that the subject property was purchased by *Shri Om Prakash Chadha*, father of the respondents, vide registered Sale Deed dated 29.05.1986. After the demise of their father and mother, both the respondents herein became the owners of the subject property by operation of law. The petitioner herein was inducted as a tenant of the subject property and the last rent was paid at the rate of Rs.2,000/- per month, exclusive of other charges. The respondents herein sought eviction on account of *bona fide* need, stating therein that they have no other suitable alternative accommodation available for the purpose of opening their own business of spectacles.

3. On listing of the eviction petition before the learned ARC, the summons in the prescribed form under Third Schedule of the DRC Act were issued to the petitioner. The petitioner was duly served on 16.06.2023. Additionally, the petitioner was served through registered post on 09.06.2023. Whereafter, the petitioner filed a leave to defend application on 15.07.2023. Pertinently, as per the report of the *Ahlmad*, summons as well as copy of the eviction petition were duly served and received by one *Mr Mehmood* on 16.06.2023, identifying himself to be the petitioner's employee. Thereafter, the petitioner filed an application for leave to defend on 15.07.2023, i.e., after the expiry of 15 days, the statutory period prescribed under the DRC Act.

4. Though in his application for leave to defend, the petitioner admitted to receiving of the summons on 09.06.2023, even if the statutory period is counted from 16.06.2023, the application for leave to contest was evidently filed beyond the permissible statutory period of 15 days. Notably, the same was also not accompanied by any application for condonation of delay.



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5. Keeping in view the aforesaid facts and circumstances, the learned ARC came to the conclusion that the leave to defend application was filed beyond the period prescribed under the DRC Act and accordingly, dismissed the petitioner's application for leave to defend. At the same time, learned ARC also looked into the merits of the eviction petition as well as the averments made in it. Taking note of the documents filed alongwith the eviction petition i.e., the Sale Deed, electricity bills and rent receipts in relation to the subject property, it was observed that the respondents had established themselves as co-owners and landlords of the subject property. Moreover, the respondents were also held to be successful in claiming *bona fide* need for the subject property to run their spectacles business. Resultantly, the learned ARC went on to allow the eviction petition vide the impugned order. Later on, the review filed by the petitioner also came to be dismissed.

6. At this stage, learned counsel for the petitioner places reliance on a judgment of the Division Bench of this Court in Directorate of Education v. Mohd. Shamim,¹ to submit that while the Rent Controller may not have the power to condone delay in filing an application for leave to defend, this Court has the power to condone such a delay.

7. Pertinently, the Division Bench of this Court in Directorate of Education (Supra) has categorically held that this Court does, in fact, have the power to condone the delay in filing the application for leave to defend, provided the petitioner passes the dual test, i.e., (i) he was prevented by reasons beyond his control from filing the application within the statutory limit of 15 days and (ii) he has a substantial case, warranting consideration

¹ 2019 SCC OnLine Del 11490



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of his application for leave to defend.

8. The only contention raised by the petitioner/tenant before this Court is that in the leave to contest application, the petitioner had inadvertently mentioned 09.06.2023 as the date on which he had received copy of the summons. It is contended that the summons were actually received by the petitioner on 09.07.2023, hence, his filing of the application for leave to contest was within the permissible statutory limit and without any delay.

9. The respondents/landlords, on the other hand, have countered the aforesaid contention by stating that in the leave to contest application, the petitioner himself has explicitly admitted to having been served on 09.06.2023 and it is only later, at the time of review, that the petitioner took a complete summersault and for the first time, stated that the aforesaid date was inadvertently mentioned wrongly whereas the correct date was 09.07.2023.

10. This Court, on a perusal of the record, takes note of the fact that on summons being issued, the same were also sent through registered post, the postal receipts whereof have also been placed on record, which clearly indicate the date of posting of summons upon the petitioner, i.e., 07.06.2023. Since the service of summons has been sent by way of registered post, the summons were rightly deemed to be served upon the petitioner. In light of the above, evidently, the petitioner failed in establishing sufficient cause for the delay. In fact, no explanation for the delay was provided, and the submission that the summons were received at a later date, which was inadvertently wrongly written in its leave to defend application, seems like an afterthought as it surfaces for the first time at the stage of review. On merits also, the petitioner was unable to make a substantial case for allowing



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his leave to defend application. During the course of submissions, it is informed that the possession of the subject property has already been taken over by the respondents in the execution proceedings.

11. In view of the aforesaid discussions, I do not find any merit in the instant petition and the same is accordingly dismissed alongwith pending application.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 25, 2025/rd