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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 29.01.2025***+ **RC.REV. 40/2025 & CM APPL. 5573-5576/2025****M/S PJ INTERNATIONAL**

.....Petitioner

Through: Mr. Dhruv Dwivedi & Mr. Bonny Mehra, Advocates.

versus

**M/S SUNDER LAL JAIN CHARITABLE EYE
HOSPITAL**

.....Respondent

Through: Mr. Giriraj Subramaniam, Mr. Simarpal Singh Sawhney & Mr. Ravi Pathak, Advocates.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM APPL. 5576/2025 [Exemption from filing certified TCR]**

1. Allowed, subject to just exceptions.
2. The Application stands disposed of.

CM APPL. 5575/2025 [Exemption from filing legible/typed copies]

3. Allowed, subject to just exceptions.
4. The Application stands disposed of.

RC.REV. 40/2025 & CM APPL. 5573/2025 [for condonation of delay]

5. The present Petition seeks to challenge an order dated 11.12.2018 [hereinafter referred to as "Impugned Order"] passed by the learned ARC-02, Central, Tis Hazari Courts, Delhi under the Section 14 (1) (e) of the Delhi Rent Control Act, 1958 [hereinafter referred to as "DRC Act"] dismissing the Leave to Defend/Contest Application filed by the



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Petitioner/tenant. The premises in issue is one shop at ground floor in property bearing Municipal No. 10393 B, Sunder Lal Jain Charitable Eye Hospital, Motia Khan, Sadar Thana Road, Delhi, as shown in red colour in the site plan annexed with the Eviction Petition [hereinafter referred to as the “subject premises”].

6. Learned Counsel for the parties submit that since the execution proceedings have already been filed, the matter be taken up for hearing today. With the consent of parties, the Petition is taken for hearing and final disposal today.

7. At the outset, an objection has been raised by the learned Counsel for the Respondent/landlord. It is submitted that the delay is not mentioned correctly in the Application for condonation of delay which has been filed by the Petitioner/tenant. The delay is stated to be 426 days when in fact it is about four years.

8. Learned Counsel for the Petitioner/tenant has made two submissions. In the first instance, it is submitted that the limitation has to be calculated not from the date of the Eviction Order but from the date on which the Petitioner/tenant became aware of the execution proceedings. It is contended by the learned Counsel for the Petitioner/tenant that the Petition is within limitation.

8.1 Secondly, relying on the judgment of a Coordinate Bench of this Court passed in RC.REV. 131/2016 captioned ***Kuldeep Singh v. Sanjay Aggarwal***¹ dated 13.04.2018, it is submitted that in the circumstances where

¹ (2018) SCC OnLine Del 8562



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a property, after the passing of the Eviction Order, has been sold, the foundation on which the Eviction Petition was filed ceases to exist. It is thus submitted that the Respondent/landlord cannot be permitted to execute the Eviction Order.

8.2 Lastly, it is contended in the Application for condonation of delay that a vested right has accrued in the Petitioner/tenant in view of the fact that the Respondent/landlord has chosen to abandon its right to execute the Eviction Order/decreed for several years.

9. Learned Counsel for the Respondent/landlord on the other hand submits that the subject premises has not been sold. It is submitted that the Respondent/landlord is a charitable organisation and it is only recently they were in a position to get the financial wherewithal to execute the decree and thus there was a delay in filing of the execution proceedings.

9.1 In addition, learned Counsel for the Respondent/landlord contends that the judgment in the *Kuldeep Singh* case is factually different from the present case, as there was a clear admission on the part of the Respondent/landlord in that case that the property was sold after the eviction order was passed however, prior to the execution of the eviction order, whereas there is no such admission in the present case.

9.2 Lastly, it is contended that the arguments which have been taken by the learned Counsel for the Petitioner/tenant on the right to sue and losing of the vested rights by the Respondent/landlord due to delay in execution are untenable in law and liable to be rejected.

10. As stated above, the learned Trial Court had, after an examination of



the Leave to Defend/Contest Application, found that the Petitioner/tenant had not made out a case for allowing of his Leave to Defend/Contest Application and had by the Impugned Order dismissed this Application on 11.12.2018.

11. It is settled law, that the limitation period for filing of a Revision Petition under Section 25-B(8) of the DRC Act is a period of three years from the date the Eviction Order is passed. A Coordinate Bench of this Court in *Jai Prakash v. Jean Conea*² has held that since there is no period of limitation provided for a petition under Section 25-B(8) of the DRC Act, the limitation as is prescribed in Article 137 of the Limitation Act, 1963 [hereinafter referred to as the “Limitation Act”] is applicable which provides that the period of limitation is three years from the date when the right to sue accrues. The relevant extract of *Jai Prakash* case is below:

*“(5) The matter came up for consideration before the Supreme Court in The Kerala State Electricity Board vs. I.P. Kunhaliumma MANU/SC/0323/1976: [1977]1SCR996. After referring to its earlier decisions, the Supreme Court differed with the earlier view taken by it in Athani Municipal Council Ca:e (Supra) and held that Article 137 of the Limitation Act, 1963, is not confined to applications contemplated by or under the CPC. The interpretation, which was given to Article 181 of the Limitation Act, 1908, was held to be not applicable with regard to Article 137 of the Limitation Act, 1963. In view of this latest pronouncement of Supreme Court in The Kirala case (Supra), it seems that application or petition under any law for which no period of limitation is provided elsewhere in the Third Division of the Limitation Act is governed by Article 137 of the Limitation Act, 1963. **The petition under Section 25-B(8) of the Act is a revision petition to this court, and no period of limitation is specified in the Third Division of the Limitation Act and as such Article 137 of the Limitation Act is applicable.** This Article provided that any other application for which no period of limitation is provided elsewhere in this division i.e. Third Division of the Schedule of the Limitation Act, **the period of limitation is three years from the date when the right to apply accrues. Thus, I am of the view that the***

² MANU/DE/0465/1980



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revision petition under the proviso to sub-section (8) of Section 25-B of the Act is governed by Article 137 to the Limitation Act. The impugned order of the Controller was passed on 29th April, 1978 and the present revision petition was filed on 17th May, 1980 and as such the revision petition seems to be within time...

[Emphasis supplied]

11.1 In the case of *Sudesh Kumar Bansal v. Ajay Saini and Ors.*³ a Coordinate Bench of this Court has held that rent revision is covered under Article 137 of the Limitation Act and the limitation period is three years from the date of the impugned order. The relevant extract is reproduced below:

*"3. Learned counsel further submits that in any event this being a rent revision, is covered by **Article 137 of the Limitation Act and the limitation period is three years from the impugned order and even if it is calculated from the date of re-filing the petition is within time.***

***4. In view of the above and for the reasons stated in the application, the delay in re-filing is condoned.** The application stands disposed of."*

[Emphasis supplied]

12. The record in the present case reflects that the limitation period for the filing of the Revision Petition would be three years from 11.12.2018 which would expire on 10.12.2021. Since the period of limitation expired during the Covid-19 pandemic, in terms of the judgment of the Supreme Court in W.P(C) 3/2020 in Re: Cognizance for Extension of Limitation⁴, the extended period of limitation would have expired on 30.05.2022. The present Petition being filed on 24.01.2025 was thus delayed by approximately 970 days.

13. As discussed above, the only contention with respect to limitation

³ 2019 SCC OnLine Del 10437

⁴ (2020) 19 SCC 10



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which has been raised by the Petitioner/tenant is that the right to sue accrued in the facts of the case when notice of the Execution Petition No.1875/2024 was served upon the Petitioner/tenant in August, 2024. Learned Counsel for the Petitioner/tenant has also relied upon the judgment of the Supreme Court in ***Shakti Bhog Food Industries Ltd. v. The Central Bank of India & Ors.***⁵ to submit that the right to sue accrues when there is a clear and unequivocal threat of infringement of rights, thus, the right to sue would accrue only when execution proceedings were filed.

14. The power to condone delay has to be exercised by a Court based on the principles that are set out in Section 5 of the Limitation Act, which provides that the delay can be condoned provided that a party is able to show ‘sufficient cause’ for such delay. Although the term ‘sufficient cause’ is not defined in the Limitation Act, however, the Courts have interpreted this provision and held that the party seeking such condonation has to show that there were adequate reasons for such delay.

14.1 The Supreme Court in the case of ***Sheo Raj Singh (Deceased) Thr. LRs & Ors. v. Union of India & Anr.***⁶ has held that the power to condone delay must be exercised based on the cause and not the length of the delay. A genuine explanation and not a mere excuse is required and each case must be judged on its own facts. The relevant extract of ***Sheo Raj Singh*** case is reproduced below:

“35...

35.2. The expression “sufficient cause” is elastic enough for courts to do

⁵ MANU/SC/0468/2020

⁶ (2023) 10 SCC 531



substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail.

35.3. It is upon the courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such applications for condonation of delay.

35.4. Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on part of the government functionaries and the government counsel on record before the Reference Court.

35.5. The officer responsible for the negligence would be liable to suffer and not public interest through the State. The High Court felt inclined to take a pragmatic view since the negligence therein did not border on callousness.”

[Emphasis Supplied]

14.2 The Supreme Court in ***Basawaraj & Ors. v. Special Land Acquisition Officer***⁷, has held that “Sufficient Cause” means adequate and enough reason which prevented the party to approach the Court within limitation, and in absence of such reasons, there cannot be any condonation. If party is found to be negligent in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, no Court could be justified in condoning such delay even by imposing any condition whatsoever. The relevant extract of ***Baswaraj*** case reads as follows:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in

⁷ (2013) 14 SCC 81



condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

[Emphasis Supplied]

15. The ground that has been urged before this Court by the learned Counsel for the Petitioner/tenant is that the right to file an Eviction Petition would arise within three years of the receipt of the notice of execution proceedings. In support of this contention, learned Counsel for the Petitioner has relied on the judgment of the Supreme Court in ***Shakti Bhog Food*** case. The Supreme Court in ***Shakti Bhog Food*** case was examining a judgment which upheld the dismissal of a plaint under the provisions of Order VII Rule 11 of Code of Civil Procedure, 1908 [hereinafter referred to as the “CPC”], wherein the Court had found that the plaint was barred by limitation being filed beyond the period of three years as prescribed under Article 113 of the Limitation Act. The discussion in the entire judgment revolves around an application under Order VII Rule 11(d) of CPC [which states that the plaint is to be rejected if barred by law]. It was in this context the Court while discussing applicability of Order VII Rule 11(d) of CPC relied on the provisions of Articles 58 and 113 of the Limitation Act and held that the right to sue in such cases would occur from three years from the right to sue first accrues.

15.1 However, in the present case, the provisions of Article 113 are not applicable but Article 137 of the Limitation Act. The issue regarding the



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limitation for filing a revision petition under Section 25-B(8) of the Delhi Rent Control Act, 1958 has been settled by this Court as being three years from the date the right to sue accrues. Thus, reliance as placed by the learned Counsel for the Petitioner/tenant on the *Shakti Bhog Food* case is without merit.

16. In any event, it is not the case of the Petitioner/tenant that he was not aware that the eviction order was passed. A perusal of the Impugned Order shows that the Petitioner/tenant contested the matter before the learned Trial Court and filed a Leave to Defend/Contest Application and raised defences before the learned Trial Court. Thus, it is not a case where the Petitioner/tenant was not aware of the passing of the eviction order.

17. The only other ground raised before this Court by the learned Counsel for the Petitioner/tenant is that the subject premises have already been sold by the Respondent/landlord, and thus, relying on the judgment of a Coordinate Bench of this Court in the *Kuldeep Singh* case, the present Revision Petition is required to be allowed. The learned Counsel for the Petitioner/tenant has also stated that since the subject premises has been sold thus, the Impugned Order cannot be executed. This submission of the Petitioner/tenant is also devoid of merits.

17.1 Learned Counsel for the Respondent/landlord has already averred that the subject premises has not been sold by the Respondent/landlord. It is further contended that the Respondent/landlord is a charitable institution and owing to various financial difficulties, the execution proceedings could not be filed by the Respondent/landlord until 2024. In addition, learned Counsel



for the Respondent/landlord, on instructions, affirms that the Respondent/landlord is still the owner of the subject premises.

18. Learned Counsel for the Respondent/landlord has also contended that the judgment in the **Kuldeep Singh** case is not applicable in the present case since the subject premises has not been sold, and there is no admission of this fact in the present case.

18.1 The Coordinate Bench of this Court in the **Kuldeep Singh** case had relied on an admission by the landlord that the landlord has sold the property. The relevant extract of the **Kuldeep Singh** case setting out the undisputed facts in that case is below:

“4. Before this court a preliminary objection was raised by the petitioner. It was pleaded that after passing of the said eviction order, on 24.05.2016 the respondent has sold the suit property. This fact was admitted by the respondent. Hence, it was pleaded by the petitioner that the present eviction petition is not maintainable under Section 14(6) of the DRC Act and the eviction order is liable to be set aside.”

[Emphasis Supplied]

19. This Court, finds merit in the contention of the Respondent/landlord, that the **Kuldeep Singh** case has no applicability in the present case. The **Kuldeep Singh** case, hinged on the fact that the landlord had transferred the property in issue to a third party in the interregnum period between the passing of eviction order and the execution of the eviction order, thus extinguishing the basis of the Eviction. Thus, the reliance placed by the learned Counsel for the Petitioner/tenant on the judgment in the **Kuldeep Singh** case is misplaced and without any legal basis.

20. Given the fact that no ground much less sufficient cause has been



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shown by the Petitioner/tenant, the Court deems it apposite to dismiss the Application for condonation of delay.

20.1 CM APPL. 5573/2025 is accordingly dismissed.

21. The Court has also examined the Impugned Order on merits. The learned Trial Court has found that the grounds as raised by the Petitioner/tenant in his Leave to Defend/Contest Application are also limited. The aspect of landlord-tenant relationship and ownership is not disputed. The grounds taken in the Leave to Defend/Contest Application are that no proper site plan was filed by the Respondent/landlord. The learned Trial Court examined the matter on merits and found that ownership of the subject premises and the landlord-tenant relationship are not disputed. The perpetual lease deed in favour of the Respondent/landlord was also placed on record by the Respondent/landlord.

22. The *bonafide* need as set out by the Respondent/landlord is that the Respondent wants to set up a shop for sale and purchase of spectacles in the subject premises. At present the Respondent/landlord is running a similar business in a shop which is located inside the hospital building making it less accessible, and hence wants to shift to the subject premises which is more accessible being outside the hospital. It is further stated that the Respondent/landlord being a charitable hospital does not charge a lot of fee and requires to run the shop to augment its income to meet the day to day expenses to run the charitable hospital as well.

22.1 On the aspect of availability of alternate accommodation, the learned Trial Court has found that there was no other alternate suitable



accommodation available with the Respondent/landlord which was shown before the learned Trial Court.

23. The Petitioner/tenant in his Leave to Defend/Contest Application stated that no site plan showing complete construction of the subject premises on the first floor has been filed by the Respondent/landlord. It was further contended that the Respondent/landlord could get further construction raised on the ground floor as well as on the first floor of the subject premises instead of getting the shop vacated.

23.1 The learned Trial Court has also found that the subject premises is on the front side on a main road, and as is the settled law, the premises on the main road/ground floor are better for commercial purposes, and thus learned trial court held in favour of the Respondent/landlord on this aspect. It was further held that it is settled law that the tenant cannot dictate terms to the landlord as to how the landlord must use the premises to make additional construction.

24. It is settled law that neither the Courts nor the tenants can dictate to the landlord as to how to use his premises. In *Uday Shankar Upadhyay v. Naveen Maheshwari*⁸, the Supreme Court has held that the Court cannot dictate to the landlord as to the extent which floor he must use for his business. Besides shops and businesses are usually on the ground floor. The relevant extract of the *Uday Shankar Upadhyay* case is reproduced below:

“7. In our opinion, once it is not disputed that the landlord is in bona fide need of the premises, it is not for the courts to say that he should shift to the first floor or any higher floor. It is well known that shops and businesses are usually (though not invariably) conducted on the ground

⁸ (2010) 1 SCC 503



floor, because the customers can reach there easily. The court cannot dictate to the landlord which floor he should use for his business; that is for the landlord himself to decide. Hence, the view of the courts below that the sons of Plaintiff 1 should do business on the first floor in the hall which is being used for residential purpose was, in our opinion, wholly arbitrary, and hence cannot be sustained. As regards the finding that the sons of Plaintiff 1 are getting a salary of Rs 1500 from the firm, in our opinion, this is wholly irrelevant and was wrongly taken into consideration by the High Court.”

[Emphasis Supplied]

24.1 This Court finds no infirmity with the finding of the learned Trial Court in this regard.

25. In any event, the Petitioner/tenant’s apprehension that Respondent/landlord will not be able to use the subject premises for its stated *bona fide*, is adequately addressed by the Section 19 of the Act.

25.1 The Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*⁹ 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 of *Abid-Ul-Islam* case 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

⁹ (2022) 6 SCC 30



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]

26. The examination by a Court in a petition under Section 25-B(8) is limited and circumspect. The jurisdiction of this Court is only revisionary in nature and limited in scope. The Supreme Court in ***Abid-Ul-Islam case*** interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the DRC 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 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]

27. The learned Trial Court has examined the contentions as raised by the Petitioner/tenant and has found that no triable issue has been raised. The examination by this Court does not show anything to the contrary. As stated above, the revisionary jurisdiction of this Court is limited and circumspect. All that the Court is required to examine, in terms of the judgment of the



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Supreme Court in *Abid-Ul-Islam* case, is whether there is absence of adjudication for interference by this Court or any error apparent on the face of the record. Even on merits this Court finds that no ground for interference has been made out by the Petitioner/tenant.

28. In view of the foregoing discussion, this Court finds no merit in the present Petition. The Petition is accordingly dismissed. All pending Applications stand closed.

TARA VITASTA GANJU, J

JANUARY 29, 2025/ ha

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