



2025:DHC:1156



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

Date of Decision: 07.02.2025

+ **RC.REV. 50/2021 & CM Appl.7653/2021**

NEW AIRWAYS TRAVELS PVT. LTD.

.....Petitioner

Through: Mr. Rizwan, Ms. Sachi Chopra and
Ms. Nistha Sinha, Advs.

versus

S.K. GUPTA & ANR.

.....Respondents

Through: Mr. C.P. Vig, Adv. for R-1.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed on behalf of the Petitioner impugning the order dated 21.12.2015 [hereinafter referred to as "Impugned Order"] passed by the learned ARC/ACJ/CCJ, New Delhi in "objections" filed by the Petitioner.

2. At the outset learned Counsel for the Respondent No.1 has raised two preliminary objections. He submits that the present Petition filed by the Petitioner is not maintainable under the provisions of Section 25(B) (8) of the Delhi Rent Control Act, 1958 [hereinafter referred to as "Act"] since the objections which were sought to be decided by the learned Rent Controller had not been filed under the provisions of either Section 14(1)(e), 14A, 14B, 14C and 14D of the Act. Secondly, it is contended that in any event, the order that the Petitioner seeks to challenge has been passed on 21.12.2015 while the Revision Petition has been filed on



15.02.2021. Thus, it is contended that the Petition is barred by limitation.

3. Learned Counsel for the Petitioner, on the other hand, makes two submissions. He submits that the Petitioner has approached this Court after being granted liberty by the learned Trial Court. Reliance is placed on paragraph 15 of the order dated 10.12.2020 passed by the learned Trial Court in this regard. In addition, learned Counsel for the Petitioner submits that the Petitioner will be left remediless against the Impugned Order, if the Petition is dismissed.

4. Learned Counsel for the Respondent No.1 submits that the Respondent No.1 is the landlord of the premises i.e., Municipal No. 84, Tolstoy Lane, New Delhi admeasuring 700 sq. ft [hereinafter referred to as “subject premises”]. It is contended that in the year 2010, Respondent No.1 filed an Eviction Petition for ejectment of Respondent No.2/M/s Him Traders Pvt. Ltd. [hereinafter referred to as “Tenant”] bearing Eviction Petition No. 07/2010 captioned **Sh. S.K. Gupta v. M/s Him Traders Pvt. Ltd.** It is contended that the order evicting the tenant has attained finality.

5. The record reflects that an application for leave to defend/contest was filed by Tenant before the learned Rent Controller which was dismissed by the learned Rent Controller on 31.03.2011. This order was challenged by the Tenant before this Court by way of RC. REV. 546/2011 captioned **M/s Him Traders Pvt. Ltd. v. Sh. S.K. Gupta.**

6. By an order dated 08.08.2014 passed by a Coordinate Bench of this Court, the challenge to the dismissal of the leave to defend Application was also dismissed. Subsequently, the Tenant approached the Supreme



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Court against the order dated 08.08.2014 which challenge could also not be sustained and was dismissed by an order dated 12.02.2016 in SLP (C) No. 1122/2016 captioned ***Him Traders Pvt. Ltd. vs. S.K. Gupta***. Thus, the order evicting the Tenant from the subject premises has attained finality.

7. Subsequently, the Respondent No.1 filed proceedings for the execution of the Eviction Order dated 31.03.2011 wherein the Petitioner filed 'Objections' under the provisions of Order XXI of Code of Civil Procedure, 1908.

8. As can be seen above narration, the Petitioner before this Court is neither the tenants nor the landlord. The Petitioner had filed "objections" before the learned Trial Court in Ex. No. 10/11 captioned ***S K Gupta vs. Him Traders Pvt. Ltd.*** These objections were dismissed by the Impugned Order. Against the dismissal of these objections, the Petitioner first filed an Appeal under Section 38 of the Act. The said Appeal was also dismissed by the learned Rent Controller giving the Petitioner liberty to take appropriate steps before an appropriate forum. This has led to the filing of the present Petition.

9. The Supreme Court in the judgment of ***Prithipal Singh v. Satpal Singh***¹ has held that only the applications filed by a landlord for recovery of possession of any premises on the ground specified in clause (e) sub-section (1) of Section 14 or under Section 14-A or under Section 14-B or under Section 14-C or under Section 14-D would be dealt with in accordance with Section 25B of the Act. Section 25-B(8) sets out that no appeal shall lie against an order for recovery of possession however, the

¹ (2010) 2 SCC 15



High Court may call for the records and examine to ascertain if it is in accordance with law. The relevant extract is reproduced below:

*“10. Now comes Chapter III-A of the Rent Act which consists of Sections 25-A to 25-C as inserted by Act 18 of 1976 i.e. w.e.f. 1-12-1975. By introduction of **Chapter III-A, a special provision was introduced by the legislature for summary trial of certain applications filed under the Rent Act.** Section 25-A of the Act clearly says that this provision of Chapter III-A to have overriding effect notwithstanding any inconsistency thereof contained elsewhere in this Act or any other law for the time being in force. **Section 25-B is the provision by which special procedure for disposal of applications for eviction on the ground of bona fide requirement filed at the instance of the landlord under Section 14 or 14-A or 14-B or 14-C or 14-D of the Act has been laid down.***

*11. Since we are primarily concerned with **Section 25-B of the Rent Act**, by which the procedure has been adopted specifically for eviction of a tenant by a landlord on the ground of bona fide requirement, we need to reproduce the said section which runs as under:*

*“25-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.—(1) **Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14, or under Section 14-A, or under Section 14-B or under Section 14-C or under Section 14-D, shall be dealt with in accordance with the procedure specified in this section.***

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(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court on revision, the Controller may exercise the powers of review in accordance with the provisions of Order 47 of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

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From a close examination of Section 25-B sub-section (1) of the Rent Act, it would be evident and clear that an application filed by a landlord for recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14 or under Section 14-A or under Section 14-B or under Section 14-C or under Section 14-D, shall be dealt with in accordance with the procedure specified in this section.

[Emphasis supplied]

9.1 The Supreme Court in the *Prithipal Singh* case has further held as follows:

*“23. As noted hereinbefore, Section 25-B(1) clearly says that any application filed by a landlord for recovery of possession of any premises, inter alia, on the **ground of Section 14(1)(e) of the Rent Act, shall be dealt with in accordance with the procedure specified in Section 25-B of the Rent Act. Therefore, sub-section (1) of Section 25-B makes it clear that if any application for eviction of a tenant is filed by the landlord, the special procedure indicated in Section 25-B has to be followed and Section 25-B(1) clearly stipulates that the application for eviction shall be strictly dealt with in accordance with the procedure specified in this section. Apart from that, as we have noted hereinbefore, Section 25-B itself is a special code and therefore, the Rent Controller, while dealing with an application for eviction of a tenant on the ground of bona fide requirement, has to follow strictly in compliance with Section 25-B of the Act. Therefore, after insertion of Section 25-B of the Act, any application for granting eviction for a special kind of landlord, shall be dealt with strictly in compliance with Section 25-B and question of relying on Rule 23 of the Code, which also does not give full right to apply the provisions of the Code, could be applied.**”*

[Emphasis supplied]

10. It is thus no longer *res integra* that Chapter IIIA of the Act is a complete code in itself. The provisions of Section 25B of the Act can be exercised in the circumstances as are set out in this Section. Sub-Section (1) of Section 25B limits the adjudication under these provisions to orders passed by the learned Trial Court in Petitions under Sections 14(1)(e), 14A, 14B, 14C or 14D of the Act, only Petitions/Applications filed under these provisions for the recovery of premises, are to be dealt with under



Chapter IIIA of the Act i.e., Section 25B of the Act.

10.1 Section 25B(8) of the Act sets out that the orders passed under this Section are not amenable to an appeal, however, the High Court may satisfy itself on an order passed under Section 25B of the Act and for that purpose may examine the same. A Petition under Section 25B(8) is thus restricted only to examination of an order passed by a Rent Controller under Section 14(1)(e), 14A, 14B, 14C or 14D. It is apposite to extract the relevant provisions of Section 25B of the Act, which are set out below:

“25B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.—

(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A [or under section 14B or under section 14C or under section 14D], shall be dealt with in accordance with the procedure specified in this section.

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(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court on revision, the Controller may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

(10) ...”

[Emphasis Supplied]

11. Concededly, the order impugned in the present Petition is a judgment/order which, although passed by the Rent Controller, has been



passed in Ex. No.10/2011 captioned ***S. K. Gupta vs. Him Traders Pvt. Ltd.***, wherein the ‘Objections’ filed by the Petitioner to the Execution Petition filed by Respondent No.1 were dismissed by the Executing Court. As stated above, the Impugned Order has not been passed in a challenge to a Petition/Application for recovery of possession under Section 14(1)(e) of the Act. Nor is it an order passed under Sections 14A, 14B, 14C or 14D of the Act. As stated above, the challenge in a Petition under Section 25-B(8) is specific to only those Petitions/Applications which impugn orders under Section 14(1)(e) and Section 14A, 14B, 14C or 14D of the Act. Thus, the Impugned Order is not subject to challenge before this Court in a Petition under Section 25-B(8) of the Act as has been sought to be done by the Petitioner.

12. The other contention raised by the Petitioner is that the learned Trial Court has given him liberty to approach this Court. This contention of the Petitioner is misconceived. The learned Trial Court in the order dated 10.12.2020 has set out that the Petitioner has liberty to exercise his rights before the appropriate forum. The learned Trial Court does not give liberty to the Petitioner to approach his Court. The relevant extract of the Order dated 10.12.2020 is set out below:

“14. In view of the above facts and circumstances, I consider that at the outset, both the appeals are not maintainable in view of Section 25B(S) of the DRC Act. The aforesaid appeals are dismissed being not maintainable.

15. During the course of submission, Ld. Counsel for the appellant has submitted that he may be granted liberty to file the revision petition before the Hon'ble High Court of Delhi.

16. It goes without saying that the appellant has all the rights to exercise his legal rights before the appropriate forum.”

[Emphasis Supplied]



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13. The contention of the Petitioner that the Petitioner will be left remediless if this Petition is dismissed, is also without merit. Clearly, the remedy of the Petitioner does not lie before this Court.

14. The Petition is accordingly dismissed. All pending Applications also stand dismissed.

15. Liberty is however granted to the Petitioner to approach the appropriate forum for redressal of his grievances *albeit* in accordance with law.

16. The Respondent No.1 is also at liberty to take appropriate steps in accordance with law for recovery of his dues including arrears of rental, user and occupation charges and damages.

17. The rights and contentions of both parties are kept open.

18. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

FEBRUARY 7, 2025/r/jn

Click here to check corrigendum, if any