



2025:DHC:10773



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: November 27, 2025*

+ RC.REV. 99/2021, CM APPL. 22228/2021

MUKESH KHANNA

.....Petitioner

Through: Mr. Rajat Aneja and Ms. Chandrika
Gupta, Advocates

Versus

DES RAJ JEWELLERS

.....Respondent

Through: Mr. Amit Saxena and Mr. S.P.
Mehta, Advocates.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (O R A L)

1. By virtue of the present petition, the petitioner/ landlord (*landlord*) seeks setting aside/ quashing of the order dated 20.03.2021 passed by the learned Additional Rent Controller (Central), Tis Hazari, Delhi (*learned ARC*), in Eviction Petition bearing E.P. No. 391/2019, titled, “*Mukesh Khanna v. M/s Des Raj Jewellers*”, whereby, the review application filed by the respondent/ tenant (*tenant*) under *Order XLVII rule 1* read with *Section 151* of the Code of Civil Procedure, 1908 (*CPC*) was allowed and Eviction Order dated 23.10.2020 passed by the learned Predecessor Judge was set-aside/ recalled.

2. *Succinctly put*, before the learned Predecessor Judge, it was the case of the landlord that he was/ is one of the co-owners of the immovable property bearing Municipal Nos. 2614, 2615, 2622, 2623 and 2624, falling in Khasra Nos. 243 and 244, Naiwala, Bank Street, Karol Bagh, New

RC.REV. 99/2021

Page 1 of 8



Delhi, wherein the subject premises was/ is situated.

3. As per landlord, he is a partner in a registered partnership firm, M/s. Khanna Jewellers (regd.), which had been carrying on its jewellery business from a rented premises bearing no. G-3, Ground Floor, NDSE Market-I, New Delhi-110 049, however, pursuant to an order of eviction dated 09.07.2018, the landlord of the said premises obtained possession thereof, thereby adversely affecting the petitioner/landlord.

4. Consequently, since the landlord had a *bona fide requirement* of the subject premises for setting up an independent jewellery business for his son, who had substantial experience in the jewellery business, he filed an Eviction Petition under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958 (**DRC Act**).

5. Upon service of notice, the tenant filed an application seeking leave to defend which was dismissed vide order dated 23.10.2020, and consequently an eviction order was passed in favour of the landlord by the learned Predecessor Judge.

6. Thereafter, the tenant preferred an application seeking review of the aforesaid order, which has then been allowed by the learned ARC later on *vide* order dated 20.03.2021.

7. Aggrieved by the order dated 20.03.2021 passed by the learned ARC, the landlord challenged the same by way of the present revision petition.

8. Of the various grounds taken by the landlord, learned counsel for the landlord primarily submits that the learned ARC has committed a grave jurisdictional error in allowing the tenant's review application inasmuch as it has been allowed without there being any basis or without



referring to any error apparent on the face of record in the order dated 23.10.2020.

9. The learned counsel further submits that the learned ARC, under the guise of exercising review jurisdiction, has in effect assumed appellate jurisdiction by re-examining the order dated 23.10.2020 afresh and substituting its own view/ opinion, which is in clear derogation of the settled principles of review.

10. In response, learned counsel for the tenant submits that the learned ARC has rightly exercised the jurisdiction of review as the order dated 23.10.2020 suffered from an error apparent on the face of the record, inasmuch as the learned Predecessor Judge failed to follow the binding law laid down by the Hon'ble Supreme Court in ***Charan Dass Duggal v. Brahma Nand*** [(1983) 1 SCC 30]; ***Precision Steel & Engineering Works v. Prem Deva Niranjana Deva Tayal*** [(1982) 3 SCC 270], which mandates that, while considering the application for leave to defend, the Controller must confine himself to the leave to defend application and affidavit and determine only whether the facts disclosed *prima facie* disentitle the landlord the relief of eviction.

11. This Court has heard learned counsel for the parties, as also have gone through the pleadings and documents on record.

12. Before advertent to the merit of the matter, it is trite that the jurisdiction of review under *Order XLVII rule 1 CPC* is extremely narrow and can only be invoked by a party only if there was/ is (a) "...discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed... .."; or (b)



there is “... ..some mistake or error apparent on the face of the record... ..”; or (c) for “... ..any other sufficient reason... ..”.

13. The Hon’ble Supreme Court in **Kamlesh Verma v. Mayawati and Others** [(2013) 8 SCC 320], has clearly summarised the principles for exercising review jurisdiction in the following words:

“19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.”

Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]



20.2. *When the review will not be maintainable:*

- (i) *A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) *Minor mistakes of inconsequential import.*
- (iii) *Review proceedings cannot be equated with the original hearing of the case.*
- (iv) *Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) *A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.*
- (vi) *The mere possibility of two views on the subject cannot be a ground for review.*
- (vii) *The error apparent on the face of the record should not be an error which has to be fished out and searched.*
- (viii) *The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*
- (ix) *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”*

14. In the present case, the learned ARC in the impugned order, has allowed the review application against the order dated 23.10.2020 passed by the learned Predecessor Judge, recording the following reasons:

“29. It has been argued by the Ld. Counsel for the petitioner that on the grounds stated by the respondent in the application under consideration, the order dated 23.10.2020 cannot be reviewed. It is stated that in the garb of the review petition, the respondent is seeking to reagitate and re-argue the case. However, after carefully going to the record, I am of the view that the order dated 23.10.2020 ought to be reviewed and recalled for the following two reasons;



(i) *Failure of the Court to take into consideration the law laid down by the Hon'ble Supreme Court in the cases of Charan Dass Duggal Vs. Brahma Nand 1983 (1) SCC 30 and Precision Steel & Engineering Works Vs. Prem Deva Niranjana Deva Tayal (1982) 3 SCC 270 and taking a view contrary to what has been held in these judgments by evaluating documents, preferring one set of affidavit over the other and giving findings on disputed questions of facts and by not following principles of natural justice —Error apparent on face of the record in view of decision of the Full Bench in the case of the Nalagarh Dehati Cooperative Vs. Beli Ram AIR 1981 HP 1.*

(ii) *Order dated 23.10.2020 obtained by fraud, concealment and by misleading the Court-Indian Bank Vs. M/s. Satyam Fibres India Pvt. Ltd. 1996 (5) see 550.”*

15. A perusal of the impugned order as also the aforesaid reveals that the learned ARC while allowing the review application, effectively assumed appellate jurisdiction and proceeded to reopen the case of the parties, even though the adjudication thereof had already been concluded by the learned Predecessor Judge. This cannot be permissible simply because the Court after passing of the final order/ judgment/ decree is *functus officio* and cannot assume jurisdiction itself, much less, under *Section 114* read with *Order XLVII* of the CPC.

16. Under such circumstances, there is, thus, nothing, which can fall within the scope of a review jurisdiction in such cases. The legislature in its wisdom has, consciously, carved out a distinction with a *review* jurisdiction from that of an *appellate* jurisdiction. The two, not being same, can neither be clubbed together nor weighed on with the same scale.



The scope, the parameters, the extent and the limitations in both are completely different and cannot be allowed to be overlapping. If done so, it will be giving wings to a review jurisdiction, what it does not have.

17. No doubt, the learned ARC, while passing the impugned order, was not in concurrence with the view taken by learned Predecessor Judge as, in his view, the judgments passed by the Hon'ble Supreme Court in ***Charan Dass Duggal vs. Brahma Nand*** [(1983) 1 SCC 30]; ***Precision Steel & Engineering Works vs. Prem Deva Niranjana Deva Tayal*** [(1982) 3 SCC 270]; and ***Indian Bank vs. Satyam Fibres India Pvt. Ltd.*** [(1996) 5 SCC 550], had not been followed.

18. In any event, mere disagreement on non-consideration of the aforesaid judgments did not entitle him to correct/ alter/ amend/ change/ modify the earlier final order of eviction passed by his own predecessor Judge. Moreover, the same cannot itself be a ground for review, as doing so, would, in effect amount to substituting the view taken by the learned Predecessor Judge, which is not permitted. This is more so, since the applicability of the said judgments was itself an issue, when they were never placed before the learned Predecessor Judge who passed the earlier order of which review was sought. All the more so, since it is well-settled that the applicability of any judgment(s) depends on the facts and circumstances of individual case therein.

19. The impugned order is more glaring since it was never the case of the tenant in his application seeking review that the earlier eviction order dated 23.10.2020 was unreasoned or did not take into consideration of the factual matrix or what was argued.

20. Thus, in the prevalent facts and circumstances, the approach



followed/ taken by the learned ARC is very much contrary to the tenets of review under *Section 114* read with *Order XLVII* of the CPC.

21. *Lastly*, though the scope of interference by this Court in revisional jurisdiction is very much limited and can only be exercised in exceptional circumstances like there exists an error apparent on the face of the record, or there is something glaringly amiss, or there is anything contrary to the position of law, however, once this Court finds manifest errors of the such nature apparent on the face of the record, it becomes the bounden duty of this Court to invoke its powers under revisional jurisdiction. Reference in this connection can be made to *Hindustan Petroleum Corporation Limited v. Dilbahar Singh* [(2014) 9 SCC 78].

22. In view of the aforesaid analysis, this Court is of the opinion that there is a manifest error in the impugned order dated 20.03.2021 passed by learned ARC and the same is set aside.

23. *Consequently*, the original eviction order dated 23.10.2020 passed by the Predecessor Judge is restored. As such, the parties shall remain bound by the terms of the original eviction order dated 23.10.2020 and will act in consonance thereof.

24. Accordingly, the present petition alongwith the pending application, is allowed and disposed of.

SAURABH BANERJEE, J

NOVEMBER 27, 2025/So/GA