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

Date of Decision: 28.04.2025

+ **RC.REV. 193/2020**

SUSHIL SRIVASTAVA & ORS.

.....Petitioners

Through: Mr. P.K. Rawal, Mr. Tarun Agarwal
and Mr. Akhil Singh, Advocates with
Petitioner No.6 in person.

versus

KRISHAN & ORS

.....Respondents

Through: Ms. Sonali Malhotra and Ms. Sakshi
Singh, Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition seeks to impugn the order dated 07.11.2019 passed by the learned Additional Rent Controller-2, Central, Tis Hazari Courts, Delhi [hereinafter referred to as the "Impugned Order"]. By the Impugned Order, the Leave to Defend/Contest Application filed by the Petitioners/tenants has been dismissed and an eviction order has been passed with respect to shop bearing no. 6123, Gali Batasha, Khari Baoli, Delhi [hereinafter referred to as "subject premises"].

2. This Court had on 18.08.2022 granted a stay on the execution of the Impugned Order and pursuant to which use and occupation charges in the sum of Rs. 17,500/- per month were directed to be paid by the Petitioners/tenants to the Respondent No.1/landlord.

3. During the pendency of the present Petition, the Petitioner No.2 had expired and the legal representatives of the Petitioner No.2 have been impleaded.



4. Learned Counsel for the Petitioners/tenants has made the following submissions.

4.1 In the first instance, it is contended that the learned Trial Court has failed to take into consideration that the Petitioners/tenants, in the Leave to Defend/Contest Application, had set out that the property bearing No.6165 Gali Barashan, Khari Baoli, Delhi-110006 [hereinafter referred to as “Property No.6165”], however the same, was not dealt with by the learned Trial Court. Reliance is placed on the following extract of paragraph 11 of the Leave to Defend/Contest Application in this behalf:

*11. That the petition filed by the petitioner is not maintainable and is liable to be dismissed or in the alternative respondents/applicants are entitle for the leave to defend in present petition. It is submitted that the petitioner has concealed the material facts and has allegedly set up the case on bonafide requirement although petitioner have sufficient accommodation not only to accommodate himself but some of the other alleged unemployed persons of his family. The case set up by the petitioner about running of his business in front of the stair case is in fact a artificial creation of paucity of accommodation by petitioner in order to over reach not only this Hon’ble Court but also all the persons of the locality. **It is submitted that the petitioner with his pre-calculated plan, after passing of the judgment in Satyawati Sharma’s case, has only a few month back started putting up goods in front of the stair case in fact he is running business from a shop admeasuring approximately 10’ X 16’ situated in the Property bearing No. 6165, Gali Barashan, Khari Baoli, Delhi which shop is situated hardly 100 paces way from the suit property but is situated also at Gali Barashan, Khari Baoli, Delhi. Not only this he using commercially the entire floor & above the suit property. A few month back the petitioner started putting up his goods in front of the stair case on the pretext of getting the said shop renovated...***

[Emphasis supplied]

4.2 In addition, relying on paragraph 12 of the Leave to Defend/Contest Application, it is contended, that there were several properties owned by the Respondent No.1/landlord. Reliance is placed on paragraph 12 of the Leave



to Defend/Contest Application, wherein these properties have been set out at Serial Nos. (a) to (l) to submit that there were several alternate accommodations available with the Respondent No.1/landlord.

4.3 Learned Counsel for the Petitioners/tenants lastly has contended, relying on the document dated 31.03.2011, which forms part of the record before the learned Trial Court, which is a receipt issued by the MCD evidencing payment of house tax by one Mr. Ram Singh, in respect of property bearing No.6124, 31 to 35, Gali Barashan, Khari Baoli, Delhi-110006. It is also contended that the said Mr. Ram Singh is the father of the Respondent No. 1/landlord, and there were several properties owned by the Respondent No. 1/landlord. Learned Counsel for the Petitioners/tenants further clarifies that the numbers 31-35 are in fact, 6131-6135 which also form part of Paragraph 12 (a) to (l) of the leave to defend. It is thus contended that the need of the Respondent No. 1/landlord is not bonafide.

5. Learned Counsel for the Respondent No. 1/landlord has made the following submissions.

5.1 It is contended that the Respondent No. 1/landlord is the owner and landlord of the subject premises having purchased the same by a registered sale deed dated 07.12.1993.

5.2 Learned Counsel for the Respondent No. 1/landlord submits that the need as set out in the Eviction Petition by Respondent No.1/landlord is for the *bona fide* need of himself and his son for opening a confectionary shop. Learned Counsel for the Respondent No. 1/landlord seeks to rely upon the Eviction Petition to submit that the family of the Respondent No. 1/landlord comprises of the Respondent No.1/landlord, his wife, one son and daughter-



in-law. The Respondent No.1/landlord is doing business of selling toffees and confectionary items, which is his only source of livelihood. The Respondent No.1/landlord is conducting his business from a pavement outside the staircase and every evening, he has to remove his entire merchandise in the evening, and at the time of closing the business. It is contended that the Respondent No.1/landlord does not have any premises to carry out his business, and thus, the Respondent No.1/landlord has to conduct retail activities sitting on the pavement.

5.3 Learned Counsel for the Respondent No. 1/landlord further seeks to rely upon the Reply to the Leave to Defend as set out in Paragraph 11 in response to the contention raised by the Petitioners/tenants. In Paragraph 11 of the Reply to leave to defend, in addition to denying the averments of the Petitioners/tenants, it has also been set out therein that there is a property which is although termed as 2165 is actually a typographical error and should be read as 6165. Learned Counsel further clarifies that there is no property No.2165, Gali Barashan, Khari Baoli, Delhi-110006 owned or in possession of the Respondent No. 1/landlord.

5.4 The explanation of the learned Counsel for the Respondent No. 1/landlord *qua* property No.6165 is that it is jointly tenanted by the Respondent No. 1/landlord and his brother Shri Satish and both have partitioned the shop. Only a portion measuring 5x10 ft. is in use by the Respondent No. 1/landlord for the storage of his merchandise. It is clarified that this property No.6165 is in an inner lane and thus, it is being used for the storage of the merchandise.

5.5 Learned Counsel for the Respondent No. 1/landlord submits that in



the Reply to the Leave to Defend each of the properties which were stated to be available with the Respondent No.1/landlord have been dealt with and it has been specified that no suitable alternate accommodation is available with the Respondent No.1/landlord.

5.6 Learned Counsel for the Respondent No. 1/landlord further submits that the only real issue raised by the Petitioners/tenants was the issue of alternate suitable accommodation which has been adequately dealt with in paragraph 9 of the Impugned Order. It is further reiterated that the premises as has been set out in Paragraphs 12 (a) to (l) are not owned by the Respondent No. 1/landlord or his family members but they are owned by the persons belonging to his extended family. It is averred that the Respondent No. 1/landlord does not own any of the premises, details of which have been set out by the Petitioners/tenants in their Application for Leave to Defend. Learned Counsel for Respondent No. 1/landlord seeks to rely upon paragraph 9 of the Impugned Order in this behalf to submit that the each of the additional accommodation that is referred to by the Petitioners/tenants in the Leave to Defend/Contest Application has been dealt with by the learned Trial Court.

6. Ownership of the Respondent No. 1/landlord *qua* the subject premises and landlord-tenant relationship between the parties is not disputed. The need as set out by the Respondent No. 1/landlord is for the need of Respondent No. 1/landlord and his son to open a confectionary shop in the subject premises and in this regard learned Trial Court has held the need of the Respondent No. 1/landlord to be *bona fide*.

6.1. On the aspect of availability of suitable alternate accommodation the



learned Trial Court, after examining all the contentions raised by the Petitioners/tenants, has found that there is no alternate accommodation available with the Respondent No. 1/landlord.

7. The Petitioners/tenants have set out at Paragraph 12 (a) to (l) in the Application for Leave to Defend, that the following premises are available with the Respondent No.1/Landlord.

“a. 6124/B, Gali Batashan, Khari Baoli, Delhi;
b. 6124, Gali Batashan, Khari Baoli, Delhi;
c. 6132, Gali Batashan, Khari Baoli, Delhi;
d. 6133, Gali Batashan, Khari Baoli, Delhi;
e. 6134, Gali Batashan, Khari Baoli, Delhi;
f. 6135, Gali Batashan, Khari Baoli, Delhi;
g. 6136, Gali Batashan, Khari Baoli, Delhi;
h. 6177, Gali Batashan, Khari Baoli, Delhi;
i. 173, Main Bazari Subzi Mandi;
j. 6304, Naya Bans, Khari Baoli, Delhi;
k. 299/1, Kucha Sanjogi Ram, Naya Bans, Khari Baoli, Delhi; and
l. 6164, Gali Batashan, Khari Baoli, Delhi”

7.1 It is the contention of the Respondent No.1/landlord that his Reply to Leave to Defend has in detail explained and clarified that these premises as have been set out in Paragraphs 12 (a) to (l) in the Application for leave to defend by the Petitioners/tenants, are not owned by the Respondent No.1 /landlord or his family members but they are owned by the persons belonging to his extended family. The Respondent No. 1/landlord has thus contended that these cannot be alternate suitable accommodation. The relevant extract of Paragraph 12 of the Reply to Leave to Defend is reproduced below:

*“12. Para 12 of the application is wrong and denied. It is denied that the present petition filed by the petitioner is not maintainable and is liable to be dismissed or in the alternative the respondents are entitled for leave to defend the present petition. **The petitioner and his family members are not the owners of any other property except the***



property in dispute and as such the petitioner cannot expand his business. In fact, the petitioner has no place for carrying his business. It is denied that property No.6124/B, Gali Batasha, Khari Baoli, Delhi measuring 35x46 ft. comprising of first floor and second floor both the floors are commercial in nature and in occupation and possession of the petitioner. The petitioner is not having any such property and the same do not belong to the petitioner. The petitioner is not having any such property and the same do not belong to the petitioner. The property bearing No. 6124 belong to the brother of the petitioner. The property No.6124 and 6124B are in possession of the brother of the petitioner and also cousin of the petitioner. The property No. 6132 is not owned by the petitioner and is owned by the brother of the petitioner where the brother of the petitioner is living. The property No. 6133, Gali Batasha, Khari Baoli, Delhi is owned by the brother of the petitioner and one cousin of the petitioner. The petitioner has nothing to do with the said property. The property No. 6134, 6135 and 6136 are owned by the cousin of the petitioner who are sons of real uncle of the petitioner and the petitioner has nothing to do with the said property. The property No. 6177, Kucha Shiv Mandir, Gali Batasha, Khari Baoli, Delhi is not owned by the petitioner and the same is owned by the petitioner who is living there. The petitioner is not in possession of any portion of the said property. In the said property No. 6177, Kucha Shiv Mandir, Khari Baoli, Delhi the uncle of the petitioner is also having right. The petitioner is not claiming any right in the said property No. 6177, Kucha Shiv Mandir, Gali Batasha, Khari Baoli, Delhi-6. The petitioner has not sold any portion of property No. 6177, Kucha Shiv Mandir, Gali Batasha, Khari Baoli, Delhi because he said property is not owned by the petitioner. The allegations made in this para are vague. If any said sale has been conducted by the petitioner, the respondent could have produced the documents to show that the sale deed was executed by the petitioner which shows the incorrectness of the allegations. The petitioner has nothing to do with the property No. 173, Main Bazar, Subzi Mandi, Delhi which is neither owned by the petitioner nor any of his family members. As the petitioner is not the owner of the said property, there is no question of the same being let out by the petitioner arises. The petitioner has no knowledge of any property no. 6304, Naya Bans, Khari Baoli, Delhi because the same is not owned by the petitioner and petitioner has no knowledge if there is any tenant by the name of M/s J.M. Traders in the said property. The allegations are false and concocted one. The petitioner has no knowledge of the property No. 299/1, Kuch Sanjoqi Ram, Naya Bans, Delhi and the petitioner is not in possession of any portion of the said property and the same is not owned by the petitioner and consequently no question of the same any portion lying



*locked arises. **The petitioner does not own any property No. 6164, Gali Batasha, Khari Baoli, Delhi-6 and is not in possession of the same.** The family of the petitioner comprises of himself, his wife, and the son Ashu Gupta, his wife and two children of Ashu Gupta. None of the family member of the petitioner owns any property except the property in dispute. It is falsely alleged that in view of the availability of the above said commercial space, which are lying vacant and in possession of the petitioner and his family members as alleged, the bonafide requirement of the petitioner is no requirement and in fact smell of ploy to get the suit premises vacated by hook and crook. The petitioner and the family of the petitioner detailed above are living jointly on the first floor and upper floor of the property in dispute”*

[Emphasis supplied]

8. The only contention pressed by the Petitioners/tenants is that the learned Trial Court has failed to take into consideration that the Petitioners/tenants, in the Leave to Defend/Contest Application, had set out that the Property No.6165 (wrongly referred to as No. 2165 in the Reply to Leave to Defend) as being available with Respondent No.1/landlord.

8.1 It has been clarified by the learned Counsel for the Respondent No.1/landlord that property which is although termed as 2165 in the Reply to Leave to Defend is actually a typographical error but is referred to as property no 6165 and that there is no property No.2165, Gali Batasha, Khari Baoli, Delhi-110006 owned or in possession of the Respondent No.1/landlord. Relying on Paragraph 11 of the Reply to Leave to Defend it is submitted that in any event, it is denied that property No.6165 is a tenanted property taken on rent by the Respondent No. 1/landlord and his brother Shri Satish jointly. The shop has been partitioned and only a small portion measuring 5x10 ft. is in use by the Respondent No.1/ landlord for the storage of his merchandise. It is clarified that this property No.6165 is in an inner lane and thus, it is being used for the storage of the merchandise.



The relevant extract of Reply to Leave to Defend in this behalf is reproduced below:

*"11. Para 11 of the application is wrong and denied. It is denied that the petition filed by the petitioner is not maintainable and is liable to be dismissed or in the alternative the respondents were entitled for Leave to contest. It is denied that the petitioner has concealed the material facts and he has already setup a case of bonafide requirement although the petitioner has sufficient accommodation not only to accommodate himself but some of other alleged unemployed persons of his family. It is denied that a case set up by the petitioner about running of his business in front of the staircase is in fact an artificially case of paucity of accommodation by the petitioner in order to over reach not only the Hon'ble Court but also the persons of the locality. **It is denied that petitioner after passing of Judgment in Satyawati Sharma's case had only few months back started putting his goods in front of the stair case, in fact, he is running business from the shop measuring 10X16 ft. situated in property no. 2165, Gali Batasha, Khari Baoli, Delhi. The said shop is in the tenancy of the Petitioner and his brother Satish. Both the brothers have partitioned the said shop and in portion of the said shop Sh. Satish Kumar is carrying business and the other portion of the said shop measuring 5x10 ft. is being used by the Petitioner for storage of his merchandise. The said shop is used as a godown by the Petitioner. The said shop is inside in gali in the last of the gali and the customers do not reach at the said shop because the said business carried out by the petitioner is of such nature which is beneficial to be carried out from the place where the petitioner is carrying business presently and not from the said shop and as such the Petitioner is keeping the said shop as godown since long.** The present petition is not false and frivolous. No property bearing no. 6124, Gali Batasha, Khari Baoli, Delhi was ever owned by any Trust and the petitioner has no connection with the property no. 6124. Whatever allegations in respect of the property no. 6124 have been made are not required for the purpose of deciding the present proceedings. The property has been correctly sold and the respondents are denying the ownership of the Petitioner."*

[Emphasis supplied]

9. So far as concerns the averment of the Petitioners/tenants that he had placed on record the house tax receipt evidencing payment of house tax by one Mr. Ram Singh, which document has been ignored by the learned Trial Court, the Respondent No.1/landlord has clarified that the said Ram Singh



was the father of the Respondent No.1/landlord and not the Respondent No.1/landlord. The ownership of a property by a father does not automatically confer rights in that property by the son. In any event, no document in support of this contention has been placed on record by the Petitioners/tenants. Thus, this contention of the Petitioners/tenants is unmerited.

10. The Petitioners/tenants have not controverted that property Nos. 2165 and 6165 are not the same shop. No document or averment has been made with respect thereof. As stated above, learned Counsel for the Respondent No.1/landlord on the other hand has averred that a small space is available with the Respondent No.1/landlord and given that space is in an inner lane, is being used only for storage purposes.

11. The provisions of Section 14(1)(e) of the Act have been provided with care by the legislature, not only is the accommodation to be ‘alternate’, but it is also required to be suitable. The Supreme Court in the ***Shiv Sarup Gupta v. Mahesh Chand Gupta***¹ has held that for an Eviction Petition to fail on the ground of availability of alternate suitable accommodation, the availability of another accommodation must be suitable and convenient in all respects as the tenanted accommodation from which the landlord seeks eviction of the tenant. It was held that:

*“14. The availability of an alternative accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. **Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation,** may have an adverse bearing on the finding as to the bona fides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his*

¹ (1999) 6 SCC 222



*alleged need. Availability of such circumstance would enable the court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. **Secondly, another principal ingredient of clause (e) of sub-section (1) of Section 14, which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available then the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternative residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternative accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction.** Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come.”*

[Emphasis Supplied]

11.1 A Coordinate Bench of this Court in the case of ***Lalta Prasad Gupta v. Sita Ram***², has held that for a tenant to seek leave to defend on the ground that the alternate suitable accommodation is available with the landlord then the onus is on the tenant to provide specific particulars. The burden on the tenant falls between mere vague allegations and conclusive documentary proof, and its extent depends on the facts of each case. The relevant extract of the ***Lalta Prasad Gupta case*** is reproduced below:

“18. Thus, if the tenant seeks leave to defend controverting the requirement pleaded by landlord on the ground of the landlord, though at the time of requirement having alternate premises, having not used the same and instead having commercially exploited the same, the tenant must plead (a) the particulars of such premises; (b) the right/title of the landlord to the same; (c) that the said premises were vacant and available for use at the time of the pleaded requirement of landlord; (d) how the

² 2017 SCC OnLine Del 13026



said premises were suitable for the pleaded requirement; and, (e) how the landlord has deprived himself thereof i.e. by sale or letting and support the said pleas with material on the basis whereof such pleas will be proved. I say that it is essential to place such material before the Rent Controller because the purpose of trial, resulting from grant of leave to defend, is to prove the said pleas and if the tenant has nothing from which he can possibly prove the said pleas, the trial also will not result in the landlord being “disentitled from obtaining an order for recovery of possession of premises on the ground specified in Clause (e) of proviso to sub Section (1) of Section 14” of the Act, within the meaning of Section 25B(5) supra. This is not to say that the tenant should file fool proof documentary evidence at the stage of leave to defend. However there must be placed on record all the requisite particulars. The onus on the tenant, at the stage of seeking leave to defend, is thus somewhere in between fool proof documentary evidence and a totally vague, bereft of any particulars plea. Where, in between the said onus lies, depends on facts of each case.”

[Emphasis Supplied]

12. A perusal of the Impugned Order shows that the learned Trial Court has dealt with all the premises which have been stated to be available with the Respondent No. 1/landlord and has held that no suitable alternate accommodation is available with the Respondent No. 1/landlord. It has been further held that the Petitioners/tenants have failed to place on record any document to substantiate the availability of alternate suitable accommodation with the Respondent No. 1/landlord. The relevant extract of the Impugned Order is reproduced below:

“9. As per the respondents, the need of the petitioner is not bonafide. The respondents have alleged that already sufficient alternative accommodations are available with the petitioner as the petitioner is already having sufficient alternative accommodation for the alleged bonafide need, if any. It has been submitted on behalf of the respondents that there is no bonafide requirement of the petitioner and already sufficient alternative accommodation is available with the petitioner. As per the respondents, the petitioner is owner of commercial property bearing no. 458 to 462, Sadar Bazar, Delhi-06. The petitioner is also the owner of property bearing no. FN-456, Sector-14, Dwarka, New Delhi and another DDA Flat bearing no. 281/D-7, Sector-6, Rohini, Delhi. In support of the same, the respondents have filed on record print out of one document obtained from the website of MCD. However ' the petitioner has very categorically denied that he is the owner of any such



property. In the considered opinion of this court, this submission of the respondents does not raise any triable issue as even if the same is prima facie considered to be true, bare perusal of the documents/print outs shows that the property bearing no. 458 to 462, Sadar Bazar, Delhi-06 is owned by three persons as joint owners and not solely by the petitioner. So far as the other two properties i.e. FN-456, Sector-14, Dwarka, New Delhi and another DDA Flat bearing no. 2811D-7, Sector-6, Rohini, Delhi are concerned, the same cannot be said to be suitable alternative accommodations as they are situated at Dwarka and Rohini respectively which are quite far away from the demised premises in question and also the same are residential in nature.

The respondents have given details of other properties also in para no.12 of their leave to defend application. The petitioner has very categorically stated that the said properties are neither owned by the petitioner nor they are in possession of the petitioner. No supporting document has been filed on record by the respondents so as to make it a triable issue. Moreover, bare perusal of the contents of para no.12 of the leave to defend application itself shows that all the said properties are already being occupied and in most of the said properties business activities are already being run from the said properties. Thus, the same by no stretch of imagination can be said to be suitable alternative accommodations. The petitioner has filed on record certain photographs which itself shows that he is in dire need of the premises in question to run his shop and if he fails to occupy the premises as provided under the Act the respondents have sufficient remedy u/s 19 of DRC Act.

It is well settled law that it is the petitioner himself/ herself, who is the best person to explain as to what is his/ her bona-fide necessity. As per the petitioner, in the case in hand, the suit premises is required bonafidely as he is not having any other suitable and reasonable accommodation available with him throughout Delhi.

10. It is further pertinent to mention here that there is no document placed on record to substantiate the contentions of the respondents about the availability of any alternative accommodation available with the petitioner which may be called sufficient to meet his bonafide requirement as sought in this petition.

It is now well settled that the leave to defend not to be granted to the tenant on the basis of bald affidavit and bald averments and assertions. Only those averments in the affidavit are to be considered by the Rent Controller which have some substance in it and are supported by some material

A bald statement without supporting material does not give rise to a triable issue entitling tenant for leave to defend.

[Emphasis Supplied]

12.1 The learned Trial Court found that there were no documents placed on



record to substantiate the contentions of the Petitioners/tenants. This aspect remains uncontroverted before this Court as well. Thus, the Petitioners/tenants have failed to discharge the burden of proof as is requisite in law.

13. In view of the above discussion, this Court finds no infirmity with the finding of the learned Trial Court that no suitable alternate accommodation is available with the Respondent No. 1/landlord.

14. The Supreme Court in *Abid-ul-Islam v. Inder Sain Dua*³ 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. 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:

*“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***

³ (2022) 6 SCC 30



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.... 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.

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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]

14.1 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 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. The learned Trial Court has examined in detail the challenge laid out by the Petitioner/tenant and found that the Respondent No. 1/landlord has been able to prove the ingredients of Section 14(1)(e) of the DRC Act. As stated above, the examination by this Court on the challenge raised by the Petitioners/tenants doesn't show otherwise.



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15. The learned Trial Court examined all contentions raised by the Petitioner and found them to be devoid of any merit. This Court has also undertaken a detailed examination of the Impugned Order and found that all ingredients of Section 14(1)(e) of the DRC Act stand proved.

16. During the course of arguments and prior to passing of this Order, on instructions of the Respondents an option was given to the Petitioner if he wished to take additional time to vacate the subject premises. Learned Counsel for the Petitioner, on instructions from the Petitioner, who is present in the Court today has declined this option.

17. For the reasons as stated, the Petition is dismissed. This Court also deems it apposite to impose costs in the sum of Rs.25,000/- payable to *Bar Council of Delhi-Indigent and Disabled Lawyers Account* by the Petitioners within six weeks from today.

18. The Petition stands disposed of in the foregoing terms.

19. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

APRIL 28, 2025/ ha/pa

[Click here to check corrigendum, if any](#)