



2025:DHC:11642



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

Reserved on: November 11, 2025

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Pronounced on: December 20, 2025

+ **RC.REV. 126/2021, CM APPL. 57035/2024**

SHRI DINESHWAR NATH KEDAR

.....Petitioner

Through: Ms. Kamlakshi Singh and Ms.
Radhika R., Advs.

Versus

M/S GOPAL DASS AND SONS

.....Respondent

Through: Mr. Surjendu Sankar Das and Ms.
Annie Mittal, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. The petitioner/ landlord¹ filed an Eviction Petition under *Section 14(1)(e)* read with *Section 25B* of the Delhi Rent Control Act, 1958² before the learned Additional Rent Controller-2(Central), Tis Hazari Courts, Delhi³ seeking eviction of the respondent/ tenant⁴ from one godown/ shop in property no.1160, Chhatta Madan Gopal, Maliwara, Chandni Chowk, Delhi-110 006⁵.

2. *Succinctly put*, it was the case of the landlord before the learned ARC that being the owner/ landlord of the subject premises, he was in *bona*

¹ Hereinafter referred to as '*landlord*'

² Hereinafter referred to as '*DRC Act*'

³ Hereinafter referred to as '*learned ARC*'

⁴ Hereinafter referred to as '*tenant*'

⁵ Hereinafter referred to as '*subject premises*'



fide requirement of the subject premises for carrying on his own business as well as for setting up a business of his unemployed and dependent son, Mr. Neetesh Kedar.

3. Upon service of summons, the tenant filed an application seeking leave to defend *inter alia* contending that the landlord was not the owner of the subject premises and that he himself had taken the same on rent from Smt. Vidhyawati, the mother of the landlord; that the landlord does not have any *bona fide requirement* of the subject premises as his son is not dependent upon him and is independently engaged in the business of 'dalali' in gold jewellery; that the landlord had sufficient *alternative accommodation* in his possession in the form of property no.1160, Chhatta Madan Gopal, Maliwara, Chandni Chowk, Delhi-110 006⁶, wherein the subject premises was situated and the property no.1838, Chhatta Madan Gopal, Matawali Gali, Chandni Chowk, Delhi-110 006⁷, as also that the landlord was in possession of sixteen shops in the property no.1160, out of which six shops were lying vacant; that the landlord possesses one large shop in the same locality wherein the landlord was earlier carrying on his dairy business; and that the landlord was also in possession of one building in Karol Bagh.

4. Though the said application for seeking leave to defend of the tenant was dismissed by the learned ARC, however, the same was set aside by this Court *vide* order dated 21.12.2012 in RC. Rev. 240/2011.

5. Thereafter, in its written statement, the tenant again reiterated that the landlord had sufficient *alternative accommodation* in his possession.

⁶ Hereinafter referred to as '**property no. 1160**'

⁷ Hereinafter referred to as '**property no. 1838**'



6. As per tenant, the requirement projected by the landlord was not *bona fide* inasmuch as his son was not dependent upon him and was, in fact, earning substantial income of about Rs 1-1.5 lakh per month from rental income and commission-based business, and lastly that in the Legal Notice dated 24.03.2003 issued by the landlord, eviction was sought on the ground of sub-letting, and no plea of *bona fide requirement* was raised therein.

7. In response thereto, it was primarily the case of the landlord that the written statement was filed and signed by one Mr. Anil Kumar, who had no concern with the subject premises, which was in fact let out to Shri Gopal Dass, as also that the son of the landlord had acquired experience in the jewellery business and intended to start his own wholesale and retail jewellery business for which he *bona fidely* required the subject premises. Moreover, since the subject premises was situated on the ground floor and located in the jewellery market, it was the most suitable for the said requirement.

8. As per landlord, since he did not have any other reasonably suitable commercial accommodation to meet his requirement except property no.1160, barring the two rooms on the first floor which were being used by the landlord as his residence-cum-office, none of the rooms/ shops were lying vacant and were under the occupation of different tenants, and property no.1838 was a joint family property under the ownership of his father, wherein except the first floor, he did not have possession of any rooms/ shops therein. Lastly, it was pleaded that the earlier dairy business was run from a chabutra in front of the landlord's residence and not from any shop.



9. The learned ARC, after considering the material on record and hearing the parties, *vide* judgment dated 06.03.2021⁸, dismissed the Eviction Petition of the landlord.

10. Aggrieved thereby, the present revision petition filed by the landlord seeking setting aside of the impugned judgment dated 06.03.2021 passed by the learned ARC.

11. Ms. Kamalakshi Singh, learned counsel for the landlord, submitted that the learned ARC gravely erred in passing the impugned judgment by disregarding the settled principles of law, inasmuch as the learned ARC failed to appreciate that the tenant, in his cross-examination, had admitted all the material facts pleaded by the landlord in the Eviction Petition. The learned counsel further submitted that since Krishan Kumar (*RWI*) in his cross examination has categorically admitted that the son of the landlord was well versed in the jewellery business and had been looking for a shop to start his business since 2008, there was nothing left for the learned ARC to have doubted the *bona fide requirement* of the landlord.

12. Ms. Kamalakshi Singh, learned counsel further submitted that the landlord was only required to disclose if there was/ were any other *reasonably suitable alternative accommodation* in his possession, particularly, as the property nos.1160 and 1838 were not suitable because all the other shops in property no.1160 were either situated on the upper floors or were already in the occupation of tenants, and the property no.1838 was admittedly a joint family property, wherein, barring the first floor which was used by the landlord as his residence, none of the rooms/

⁸ Hereinafter referred to as '*impugned judgment*'



shops therein were in his possession. In any event, that the landlord was not the sole owner of property no.1838, as also that it was a joint family property was admitted by the said **RWI** in his cross-examination.

13. Ms. Kamlakshi Singh, learned counsel then submitted that, even otherwise, the onus to prove availability of suitable *alternative accommodation* with the landlord lay with the tenant. The tenant miserably failed to do so, more so, since he himself admitted in cross-examination of having no knowledge of the six shops lying vacant. Thus, she submitted that the learned ARC could not have proceeded on the basis of hearsay evidence.

14. Ms. Kamlakshi Singh, learned counsel then submitted that though the landlord had disclosed about the other tenants who were in possession of other shops on the ground floor of the property no.1160 in the Site Plan filed by him, the learned ARC failed to consider the same.

15. To buttress her submissions, Ms. Kamlakshi Singh, learned counsel has placed reliance upon ***Manmohan Singh vs. Arjun Uppal & Anr.***⁹, ***Balwant Singh @ Bant Singh & Anr. vs. Sudarshan Kumar & Anr.***¹⁰, ***Satish Kumar & Anr. vs. Kanwar Raj Singh***¹¹, ***Praveen Kumar Arora vs. Akshay***¹², ***K.B.Watts v. Vipin Kalra***¹³, ***Manju Devi vs. Pratap Singh***¹⁴, ***Anil Bajaj and Anr. vs. Vinod Ahuja***¹⁵, ***Viran Wali vs. Kuldeep Rai***

⁹ RC.REV. 117/2016

¹⁰ SLP (C) Nos. 10793-10794/ 2020

¹¹ 2021(1) CLJ 510 (Del.)

¹² RC.REV. 296/2016

¹³ 220 (2015) DLT 402

¹⁴ 219 (2015) DLT 260

¹⁵ (2014) 15 SCC 610



Kochhar¹⁶, Mukesh Kumar vs. Rishi Prakash¹⁷ and Uday Shankar Upadhyay & Ors. vs. Naveen Maheshwari¹⁸.

16. In view of the aforesaid submissions, Ms. Kamlakshi Singh submitted that the learned ARC has completely ignored the evidence recorded, as also the materials placed on record and therefore, the impugned judgment deserves to be set aside.

17. *Per contra*, Mr. Surjendu Sankar Das, learned counsel for the tenant submitted that the landlord has failed to satisfy the essential ingredients of *Section 14(1)(e)* of the DRC Act inasmuch as the landlord owned two alternative properties, being property nos.1160 and 1838, both situated at a distance of 500 meters, as also since, the landlord and his son are deriving substantial rental income from these properties to the tune of approximately Rs.1.5 lakhs per month. Then, relying upon Legal Notice dated 24.03.2008, the learned counsel submitted that even therein also the landlord had sought eviction on the ground of sub-letting and not on the ground of *bona fide requirement*. Therefore, as per the learned counsel, the Eviction Petition filed thereafter on the ground of *bona fide requirement* was an afterthought.

18. Mr. Surjendu Sankar Das, learned counsel then submitted that the landlord failed to produce any documentary proof to establish that property no.1838 was a joint family property or that he had no possession of any shops/ room therein. The learned counsel then submitted that the landlord had also failed to furnish essential particulars regarding the tenants allegedly occupying various shops in property no.1160. Further, though as per landlord, all the *alternative accommodations* were under the occupation

¹⁶ RC. Rev. No. 124 of 2010

¹⁷ 2009 VIII AD (DELHI) 445

¹⁸ (2010) 1 SCC 503



of tenants, no rent receipts were produced before the learned ARC.

19. This Court has heard learned counsel for the parties as also gone through the documents and pleadings on record as well as the judgments cited at Bar.

20. This Court is mindful of the revisionary power of this Court under the proviso to *Section 25B (8)* of the DRC Act being limited and circumscribed to examining the legality/ propriety/ correctness of the decision of the Rent Controller, however, as held by the Hon'ble Supreme Court in *Ram Narain Arora vs. Asha Rani*¹⁹ and *Hindustan Petroleum Corpn. Ltd. vs. Dilbahar Singh*²⁰ such a limitation does not denude this Court to examine the factual matrix to the extent necessary to test the legality, propriety and correctness of the impugned judgment.

21. Keeping the aforesaid in mind, this Court is proceeding to advert to examine the impugned judgment on merits.

22. Since it has been held by the learned ARC in the impugned judgment regarding existence of *landlord-tenant relationship* between the parties, that the tenant has himself stated in the written statement that “... .. *the contents of paras 1 and 4 are matter of record... ..*”, the said aspect stood established, and the same needs no interference, more so, as there is no challenge to it by the tenant.

23. Proceeding further, since the issues of *bona fide requirement* by the landlord, as also, the *(non-)availability of alternative accommodation* by the landlord are intertwined, both the said aspects are taken up together for consideration.

¹⁹ (1999) 1 SCC 141

²⁰ (2014) 9 SCC 78



24. Regarding *bona fide requirement* of the subject premises by the landlord, it has consistently been the case of the landlord all throughout that he had a *bone fide requirement* of the subject premises for setting up a business for his dependent son. This requirement was further elaborated in the replication, wherein it was stated that his son had gained substantial experience in the field of jewellery and thus intended to start a jewellery business. In fact, before the learned ARC, Mr. Krishan Kumar (**RW1**) categorically admitted in his cross-examination on 09.10.2018 that the son of the landlord “... ..*is well versed with the jewellery business and was looking for the premises to run his own business... ..*”.

25. The same was sufficient for the learned ARC to conclude that the *bona fide requirement* of the landlord was honest, genuine and authentic particularly in view of the categoric admission made by the RW1. As such, there was no reason for the learned ARC to hold otherwise, especially, in view of the Hon’ble Supreme Court holding in **Baldev Singh Bajwa vs. Monish Saini**²¹ that when a landlord seeks eviction of the tenant for his *bona fide* need, the Controller shall presume that such a requirement is honest, genuine and *bona fide*, and the burden to dislodge such presumption squarely lies upon the tenant. However, the learned ARC is completely silent about the said aspect and the same has not been considered.

26. *Conversely*, the Eviction Petition of the landlord has been dismissed by the learned ARC since the landlord was in possession of various *alternative accommodations* in property nos.1160 and 1838, without considering the well-established position of law that once the landlord was

²¹ (2005) 12 SCC 778



able to establish his honest, genuine and *bona fide* need then, as held in *Abid-Ul-Islam vs. Inder Sain Dua*²², *Balwant Singh (supra)*, *Anil Bajaj and Anr. (supra)* and *Uday Shankar Upadhyay (supra)*, the aspect of availability of *alternative accommodations* was merely incidental and the landlord enjoys complete freedom to choose the best accommodation for his requirement by taking into account various factors including type/nature of business, place of the premises, anticipated profits, space required for operations, funds available, status of the landlord, etc., and the tenant or the Court have no say in it.

27. Be that as it may, regarding property no.1160, the tenant had specifically disclosed that the second godown on the ground floor was under the tenancy of *Jariwala* and that the premises described as “*Dharamkanta*” was under the tenancy of *Maliwara Jauhri Association*, as also later filed a Site Plan to substantiate the same before the learned ARC. It is despite thereto that the learned ARC has held that “... ..although he (landlord) has deposed during the cross-examination that the portion of ground floor is being used for commercial purpose in property no. 1160 but he has not disclosed who is in the possession of such portion and name of person who is running such commercial activity in such portion on ground floor.....”. Regarding the other shops/ rooms on the upper floors of same property no.1160, the landlord consistently maintained, also during his cross-examination, that the said portions were residential in nature, and were already under the occupation of other tenants barring two rooms on the first floor. There was nothing on record to the contrary filed by the tenant before the learned ARC.

²² (2022) 6 SCC 30



28. Thus, the alleged *alternative accommodations* were by no standards reasonable, suitable and/ or convenient for the specific requirement of the landlord for opening a jewellery shop, which, being a commercial activity, is best suited to be run from a shop situated on the ground floor. In this regard, this Court also finds able support in the decisions of this Court in ***Praveen Kumar Arora (supra)*** and ***Viran Wali (supra)*** relied upon by the learned counsel for the landlord wherein it has been held that shops on the ground floor needs to viewed differently from the other spaces available on the other floors.

29. *Interestingly*, the tenant had not led any evidence to the contrary, despite the onus being upon him to show that the said *alternative accommodations* were vacant and available to the landlord for meeting his requirement. In fact, RW1 during his cross examination, resiled from his very case by admitting that he had “... ..no idea which six shops are vacant in premises in dispute are lying vacant in premises in dispute. I cannot say anything about the details mentioned in para 2 of my affidavit. Vol. I have come to know about the vacant six shops my known people... ..”. Once again, the learned ARC failed to take note of the same.

30. Regarding property no.1838, it was also the consistent stand of the landlord all throughout, including during his cross-examination, that the said property was a joint family property under the ownership of his father and except the first floor, he had no possession of any rooms/ shops therein. In any event, the onus lay upon the tenant to rebut the same actually being a joint family property. However, the learned ARC has contrarily held that “... ..although the petitioner has claimed that the property no.1838 is joint family property, but nothing reliable has been placed on record... ..”.



31. Be that as it may, at the end of the day, it is clear from the records that since it was never the case of the tenant that the *alternative accommodations* available with the landlord were similar to the subject premises, no evidence was led qua it. Therefore, there was no plausible reason for the learned ARC to infer that merely because other *alternative accommodations* were, allegedly, available with the landlord they were reasonable, suitable and convenient to cater to the need of the landlord. Moreover, non-mentioning of the name of the tenants therein or failure to give granular details could not be a relevant consideration for the learned ARC since the landlord is not required to allege/ prove about the names/ status/ capacity of another tenant occupying a different premises than the subject premises involved in the pending Eviction Petition under *Section 14(1)(e)* of the DRC Act, unless there is something which calls for them.

32. Strangely, the learned ARC has passed the impugned judgment by placing himself in the place of the landlord for determining the need of the landlord, *albeit*, without giving any cogent/ categorical reasoning qua that.

33. Overall, especially in view of the nature of findings rendered by the learned ARC in the impugned judgement, this Court comes to the conclusion that the learned ARC has completely ignored the evidence recorded, as also the materials placed on record, to proceed on the basis of mere statements made by the tenant. The same are not within the tenets of the DRC Act.

34. As such, finding no reason for sustaining the impugned judgment, and in view of what has been held by the Hon'ble Supreme Court in ***Ram Narain Arora (supra)*** and ***Hindustan Petroleum Corpn. Ltd. (supra)*** as well as the judgments relied upon by the learned counsel for the landlord,



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this is a fit case to set aside the impugned judgment dated 06.03.2021 passed by learned ARC.

35. Accordingly, the impugned judgment dated 06.03.2021 passed by learned ARC is set aside and an order of eviction is passed in favour of the landlord in respect of the subject premises being one godown/shop in property no.1160, Chhatta Madan Gopal, Maliwara, Chandni Chowk, Delhi-110 006 However, in view of *Section 14(7)* of the DRC Act, the order for recovery of possession of the subject premises shall not be executed before expiry of six months period from today.

36. In view of the aforesaid, the present petition stand disposed of in the aforesaid terms, leaving the parties to bear their respective costs.

SAURABH BANERJEE, J.

DECEMBER 20, 2025/Ab/GA