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

+ **RC.REV. 226/2020**

SHRI SANJAY KUMAR

.....Petitioner

Through: Mr. V.N. Jha, Advocate.

versus

SHRI RADHEY SHYAM BANSAL

.....Respondent

Through: Ms. Pooja Tandon, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

05.05.2025

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By way of the present petition filed under section 25-B(8) of the Delhi Rent Control Act 1958 ('DRC Act'), the petitioner (tenant) impugns order dated 15.01.2020 passed by the learned CCJ-cum-ARC, Central District, Tis Hazari Courts, Delhi, whereby his leave-to-defend application has been dismissed in proceedings seeking his eviction from the premises, being 02 rooms on the Ground Floor of property bearing No. 2188, Gali Hanuman Prasad, Masjid Khajoori, Delhi.

2. Notice on this petition was issued on 06.11.2020, by which order the operation of the impugned order was stayed. Consequent thereupon reply dated 27.11.2020 has been filed by the respondent.
3. *Vide* order dated 05.03.2021, this court had fixed use and occupation charges for the subject premises at Rs. 17,500/- per month; which



were reduced subsequently *vide* order dated 22.03.2024 to Rs. 6,600/- per month with effect from 01.04.2024.

4. The court has heard Mr. V.N. Jha, learned counsel appearing for the petitioner as well as Ms. Pooja Tandon, learned counsel appearing for the respondent at length.
5. Mr. Jha submits, that the respondent has canvassed a registered Will dated 27.02.1987 left by his mother, Smt. Bhagwati Devi, through which the respondent claims the subject premises have devolved upon the petitioner and his brothers. Counsel argues, that there were 02 properties which were bequeathed to the petitioner through that Will; however the learned Rent Controller has failed to take into account the said two premises while considering the issue of availability of suitable, alternate accommodation to the respondent. The relevant portion of Will dated 27.02.1987 is extracted below :

“2. By the grace of God, I have five sons, whose names are as under:- 1. Kanhiya Lal Bansal, 2. Han Ram Bansal, 3. Ram Narayan Bansal, 4. Rang Bihari Bansal, 5. Radhey Shyam Bansal and have two daughters whose names are Nirmal Singhal W/o Sh. Vijender Kumar Singhal and Rukmani Devi abandon (divorced) and at present living with me in my house who is being maintained by me.

“3. That after my death, my house No. 2188, Gali Hanuman Prasad, Masjid Khajoor, Delhi shall be distributed equally between my aforesaid my five sons. After my demise these five sons shall be owner. But in the room in which my divorced daughter Smt. Rukmani Devi is living shall have the right to live until death. And till the time she is alive, neither anyone shall have the right to evict her nor they shall have the right to sell that portion of this property which may fell in the share of any one of them. Till she is alive she shall have the possession and none can take possession of the said portion.



* * * * *

“6. That my forth (sic) House No. 110, Sham Park, Sahibabad, Distt. Ghaziabad, U.P., after my death mytwo younger sons Rang Bihari Lal and Radhey Shyam shall be the owner of this House. My three elder sons shall have no right over this property, who are well established and they have their own houses.”

(emphasis supplied)

6. Mr. Jha accordingly argues, that since the respondent had professed his *bona-fide* need for residential property, for providing accommodation to his family, the issue of suitable, alternate accommodation was certainly a triable issue; and leave-to-defend ought to be have been granted by the learned Rent Controller since the Will through which the respondent claims to have received the subject premises, also bequeathed upon the respondent other residential premises.
7. Upon being queried, Mr. Jha submits that the petitioner has been living in the subject premises since 1996 at the rent of Rs. 200/- per month.
8. In response, Ms. Tandon explains that the respondent is undergoing treatment for cancer and requires the subject premises for providing residential accommodation to his family, which includes him, his wife, two sons, one daughter, as well the wife of his eldest son and their minor son. Counsel submits, that since the subject premises has been occupied by the petitioner, the respondent has had to live in a rented accommodation, paying a rent of Rs. 13,000/- per month.
9. Ms. Tandon further explains, that as is evident from a perusal of the Will dated 27.02.1987 left by their mother, the subject premises had devolved upon 05 brothers, including the petitioner. She submits that



thereafter, to avoid any litigation, the 05 brothers divided the subject premises floor-wise among themselves by way of an oral partition; and the ground floor of the property has come to the share of the respondent and another brother, viz. Rang Bihari Lal, who (latter) passed-away on 17.02.2015. Furthermore, on the demise of the respondent's brother, the legal heirs of Rang Bihari Lal have executed a relinquishment deed dated 31.10.2016 in favour of the respondent and therefore the respondent is now the owner of the ground floor of the subject premises.

10. Ms. Tandon further submits that insofar as the property in Sahibabad, Ghaziabad is concerned, that is not situated within the State of Delhi and therefore could not have been considered as suitable, alternate accommodation available to the petitioner for providing residence for himself and his family in Delhi. It is submitted, that in any event, as stated in their reply filed to the present petition, the plot in Sahibabad has been sold in 2007.
11. In these circumstances, Ms. Tandon argues that since the petitioner does not dispute the landlord-tenant relationship with the respondent, the learned Rent Controller has correctly rejected the leave-to-defend application and has correctly held that the need set-out by the respondent is *bona-fide* and there is no other suitable, alternate accommodation available with the respondent.
12. Upon a conspectus of the foregoing facts, and the submissions made by learned counsel for the parties, this court is of the view that no ground is made-out for this court to interfere in impugned order dated 15.01.2020 in exercise of its revisional powers under section 25-B(8)



of the DRC Act. This court is satisfied that the order made by the learned Rent Controller is in accordance with law.

13. The revision petition is accordingly dismissed.
14. The Registry is directed to communicate a copy of this order to the learned Executing Court for information.
15. The petition is disposed-of.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MAY 5, 2025/ak