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

+ **RC.REV. 43/2018**

H S BANKA

.....Petitioner

Through: **Mr. Harshit Bhardwaj, Advocate.**

versus

HARI KISHAN SHARMA

.....Respondent

Through: **Mr. R.P. Sharma and Mr. Nishant
Sharma, Advocates.**

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

09.05.2025

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By way of the present revision petition filed under section 25-B(8)(9) of the Delhi Rent Control Act 1958 ('DRC Act') read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the petitioner (landlord) impugns judgment dated 03.11.2017 passed by the learned Additional Rent Controller, Karkardooma District Courts, Delhi, whereby the learned ARC has dismissed the eviction petition filed by the petitioner under section 14(1)(e) read with section 25 of the DRC Act in respect of premises bearing Shop No.1 comprised in property No. F-171/4, Laxmi Nagar, Delhi ('subject premises').

2. Notice on this petition was issued *vide* order dated 20.08.2018; pursuant to which reply dated 15.03.2024 has been filed on behalf of the respondent.
3. The court has heard Mr. Harshit Bhardwaj, learned counsel appearing on behalf of the petitioner; as well as Mr. R.P. Sharma, learned counsel appearing on behalf of the respondent at considerable length.



4. The two principal grounds on which the learned ARC has dismissed the eviction petitioner are:
- 4.1. *First*, that the petitioner (landlord) had failed to disclose his *bona fide* need with regard to the subject premises; and
- 4.2. *Second*, that there were some discrepancies in the site-plan filed in support of the eviction petition.
5. Upon a careful perusal of the record, it transpires that though in the eviction petition as original filed the petitioner had answered para 18(a) of the eviction petition in the following manner:

<i>18.(a). The ground on which the eviction of the tenant is sought.</i>	<i>For bonafide requirement of the petitioner for himself</i>
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Subsequently, the petitioner moved an application under Order VI Rule 17 CPC seeking to amend the petition, and in the amended the eviction petition, the petitioner said this in para 18(a) :

“18.(a). The ground on which the eviction of the tenant is sought.

No (sic) bonafide requirement of the Petitioner for himself.

That the Petitioner has no other reasonable, suitable commercial alternative accommodation to run his business in Delhi.”

6. On a fair and objective reading of the amended para 18(a) however, it is evident that the word ‘No’ appearing in the opening lines as



extracted above stood clarified in the very next sentence, in which the petitioner confirmed that he had no other reasonable, suitable, commercial, alternative accommodation to run his business in Delhi, whereby it is clear that the petitioner was canvassing his own *bona fide* requirement.

7. Most pertinently, during the petitioner's cross-examination conducted by learned counsel for the respondent on 21.11.2012, the following responses came on the record :

"I require the tenanted shop for starting(sic) my own business of Garments. I require 02 shops to start my business and apart from the respondent, I have also filed an eviction petition no. E-25/11 for bonafide requirement against the other tenant Sh. Mohan Lal. The site plan Ex PW1/5 pertains to the tenanted shop in question. The said site plan was prepared by the drafts man after inspecting the site and on the basis of the approximation as the tenanted shop was closed at that time. It is correct that the said site plan only pertains to the tenanted shop in question and does not show the remaining portion of property no, F-171/4. It is wrong to suggest that the said site plan is incorrect. It is wrong to suggest that I had purchased 02 other shops in property no. F-171/4 on 10.04.2012 after the filing of the present petition. It is correct that certain portion of property no. F-171/4 comprising the garage of the ground floor and the residential portion of the 1st floor were purchased by Neetu Banka, W/o my son Sh. Sachin Banka. The property no. F-172/A is a residential property owned by my wife and the other property no. 172/A1 is a residential property owned by my son since 1992. I have 02 shops including the tenanted shops and anothers (sic) shops leased out to Mohan Lal in Property no. F-171 and a 3rd Shop in the same property is owned by my son separately from me."

(emphasis supplied)

8. Thus, the doubt as regards the *bona fide* requirement of the petitioner; the doubt as to the availability of suitable, alternative accommodation; as well as the doubt as to the identity of the property in the context of



the site-plan filed, all stood answered in the course of the cross-examination of the petitioner itself.

9. In view of the above, attention is drawn to the following observations made and inferences drawn by the learned ARC :

“7. Despite being in knowledge of the fact that the leave was granted for non disclosure and vagueness of the business, the petitioner failed to clarify the same in his testimony i.e. the affidavit Ex. P1 produced on 08.06.2012. The petitioner has not deposed regarding the exact need of the business in his evidence affidavit either. It is only during his cross-examination that he deposed that he required the premises for commencing a business of garments. This introduction of need at the stage of cross-examination is nothing but an improvement and does not have such probative force to let the court believe regarding the exactness of need of petitioner. In a similar petition against another tenant Mohan Lal, in the same building in which the premises is situated, the petitioner did not even in his cross-examination put forth the exact need.

“8. The petitioner had also failed to aver in the petition that he had no alternate available suitable accommodation and this defect was sought to be removed only after three and half years of presentation of the present petition by moving an application u/o 6 rule 17 CPC on 13.01.14 whereas the petition was moved on 29.09.11 and application seeking leave to defend was allowed by order dated 11.04.12.”

“9. Thus, the vagueness regarding the use was never done away with and introduction of need during cross-examination is only an improvement and therefore the petitioner fails to establish to the objective satisfaction of the court the need for which the premises is required by him.”

(emphasis supplied)

10. What the record therefore shows is that *in answer to questions put at the respondent's instance*, the petitioner sufficiently explained his requirement for the subject premises, with details of what premises



were available with him, and for what reason they were neither suitable nor available to him for the purpose for which the eviction petition had been filed. In the opinion of this court, the learned ARC has erred in concluding that the petitioner had failed in establishing his *bona-fide* requirement and by observing that the “*vagueness regarding the use was never done away with*” in the course of the proceedings.

11. Clearly therefore, the observations recorded and inferences drawn by the learned ARC are erroneous on the face of the record.
12. It may also be observed for sake of completeness, that there was never any dispute as to the landlord-tenant relationship between the parties *nor* as to the rate of rent. From the record it also appears that the respondent has been in occupation of the subject premises since 1992 at a rent of Rs.205/- per month (excluding electricity charges).
13. Upon a conspectus of the above facts and circumstances, and after a careful examination of the record, this court is satisfied that the impugned order has *not* been passed in accordance with law; and accordingly, impugned judgment dated 03.11.2017 passed by the learned ARC, Karkardooma District Courts, Delhi in eviction petition bearing RC/ARC No.240/2016 is set-aside.
14. As a sequitur to the above, the eviction petition filed by the petitioner stands allowed; and the petitioner is held entitled to evict the respondent and to recover possession of the subject premises bearing Shop No.1 in property bearing No.F-171/4, Laxmi Nagar, Delhi upon the expiration of period of 06 months from today in accordance with section 14(7) of the DRC Act.



15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J.

MAY 9, 2025

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