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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 182/2024, CM APPL. 38695/2024, CM**
APPL.53230/2024, CM APPL. 56353/2024, CM APPL.
56354/2024

NEMISH D MEHTA

.....Petitioner

Through: Ms. Nipun Gupta, Mr. Amitesh Giroti
and Ms. Kriti Gupta, Advs.

versus

DINESH DAYAL & ANR.

.....Respondents

Through: Mr. Rajesh Baweja, Ms. Poonam
Kandari and Ms. Anjali Gupta, Advs.

(47)

+ **RC.REV. 183/2024, CM APPL. 38807/2024, CM**
APPL.53236/2024, CM APPL. 56330/2024, CM APPL.
56331/2024

RAJESH D MEHTA

.....Petitioner

Through: Ms. Nipun Gupta, Mr. Amitesh Giroti
and Ms. Kriti Gupta, Advs.

versus

DINESH DAYAL & ANR.

.....Respondents

Through: Mr. Rajesh Baweja, Ms. Poonam
Kandari and Ms. Anjali Gupta, Advs.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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03.03.2025

1. The Petitioners and Respondents are virtually present before the Court.
2. Learned Counsel for the Respondents, on the last date of hearing, informed the Court that the possession of the subject premises has already been taken by the Respondent through execution proceedings in accordance with law. He seeks to rely upon the order dated 16.11.2024 passed by the learned Executing Court in EX 4131/24 in support of his contention.



3. Learned Counsel for the Petitioners appears today and requests for an adjournment.

4. Learned Counsel for the Respondents objects to the request for adjournment. He further submits that the *bona fide* need as set out by the Respondents in the Eviction Petition was for setting up an Institute for knitting and stitching and that the institute has already been set up with classes are ongoing. It is contended that the Revision Petition was filed to challenge the order directing recovery of possession of the premises which order has been implemented already.

5. Learned Counsel for the Respondents has submitted that since the possession of the subject premises has been restored, nothing further survives in the present Petitions and the Petitions have become infructuous.

5.1 He relies upon the judgment passed by this Court in ***Ashok Gupta v. Deepak Rao***; 2024 SCC OnLine Del 7148 which has relied upon Judgments of the Supreme Court in ***NC Daga v. Inder Mohan Singh Rana***; (2003) 1 SCC 453 and ***Vinod Kumar Verma v. Manmohan Verma***; Civil Appeal Nos. 5220-5221 dated 19.08.2008. This Court is supported in its view by judgments passed by Coordinate Benches of this Court including ***Om Prakash Ashok Kumar & Sons v. Ajay Khurana***; 2024 SCC OnLine Del 5228, ***Neelam Sharma v. Ekant Rekhan***; 2019 SCC Online Del 6487, and ***Bhawani Shankar v Nand Lal and Ors.***; 2021 SCC OnLine Del 4284.

5.2 In addition, it is contended that Section 19 of the Delhi Rent Control Act, 1958 [hereinafter referred to as “DRC Act”] is not an alternative efficacious remedy.

6. In the ***Ashok Gupta*** case, this Court has held that the provisions of the DRC Act provide for a remedy of restoration of possession to a



Petitioners/tenants in one situation, i.e., under Section 19 of the Act. In cases allowed under Section 14(1)(e) of the Act, the recovery of possession by a tenant under Section 19(1) of the Act can be obtained if the landlord re-let the whole or part of the subject premises within three years from the date of obtaining possession from the evicted tenant. Sub-section (2) of Section 19 of the Act further provides that where such premises are not occupied within two months by landlord or within three years from the date of possession by the person for whose benefit the premises are held, or are re-let to a person without permission of the Rent Controller within three years from the date of possession, the Rent Controller may direct the landlord to put the tenant in possession or pay him such compensation as is deemed fit by the Rent Controller.

6.1 Section 19 of the Act is set out below:

"19. Recovery of possession for occupation and re-entry.-(1) Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of section 14 for under sections 14A, 14B, 14C, 14D and 21, the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises.

(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by the person for whose benefit the premises are held, within two months of obtaining such possession, or the premises having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (1) or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be bona fide, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit."



6.2 The Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*; (2022) 6 SCC 30 case has held that Section 19 of the Act gives a right of re-possession to the dispossessed tenant if landlord recovers possession under Section 14(1)(e) of the Act and thereafter, the landlord does not use the subject premises for the purpose that it was intended and set out in such Eviction Petition on which basis, an order for eviction was obtained by the landlord. The relevant extract is set out below:

"19. Before a presumption is drawn, the landlord is duty-bound to place prima facie material supported by the adequate averments. It is only thereafter, the presumption gets attracted and the onus shifts on the tenant. The object of Section 14(1)(e) vis-à-vis Section 25-B has to be seen in the light of yet another provision contained under Section 19. Section 19 gives a right to the dispossessed tenant for repossession if there is a non-compliance on the part of the landlord albeit after eviction, to put the premises to use for the intended purpose. Such a right is available only to a tenant who stood dispossessed on the application filed by the landlord invoking Section 14(1)(e) being allowed. Thus, Section 19 inter alia throws more light on the legislative objective facilitating a speedy possession. The object is also reflected in the proviso to Section 25-B(8), denying a right of appeal.."

[Emphasis Supplied]

7. In view of the foregoing, the Petitions are dismissed. All pending Applications also stand closed.

8. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MARCH 3, 2025/r/g.joshi

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