



2025:DHC:1306



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 04.02.2025*+ **RC.REV. 302/2023, CM APPL. 72196/2024****KRISHAN LAL MARWAH**

.....Petitioner

Through: Mr. Ravi Sikri, Sr. Adv. with Mr. Ayushya Kumar, Mr. Deepank Kumar, Ms. Kanak Grover, Mr. Nishant Goyal, Advs.

versus

SHARVAN KUMAR MARWAH & ORS.

.....Respondents

Through: Mr. Gaurav Seth, Mr. Pulkit Sikka, Advs. for R-1

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed by the Petitioner/tenant impugning an order dated 10.05.2023 passed by Ld. SCJ-cum-RC, Karkardooma Courts, Shahdara, Delhi [hereinafter referred to as 'Impugned Order']. By the Impugned Order, the Application for Leave to Defend/contest filed by the Petitioner/tenant was dismissed. The premises in issue is property at Ground Floor consisting of three shops, First Floor (Backside portion), Second Floor which comprises of a tin shed and open area, all part of property bearing no. 508, Teliwara, Shahdara, Delhi-110032 as shown in red colour in the site plan annexed with the Eviction Petition [hereinafter referred to as 'subject premises'].

2. Learned Senior Counsel appearing on behalf of the Petitioner/tenant



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has made one contention before this Court. It is contended that the Respondents/landlords are seeking to evict the Petitioner/tenant from the subject premises, but any order passed by the Court would lead to eviction from the shops adjacent to the subject premises being Shop No.507 and 508A, as these are single and continuous shops. It is contended that the Impugned Order directs ‘partial eviction’ and cannot be sustained.

3. This contention of the Learned Senior Counsel of the Petitioner/tenant is strongly refuted by the learned Counsel for the Respondents/landlords. Learned Counsel for the Respondents/landlords submits that all that is sought for in the Eviction Petition was eviction of the subject premises and nothing further.

4. The Petition has been examined on multiple dates including by a Coordinate Bench of this Court. The Coordinate Bench, after examining the Impugned Order, passed a detailed order on 15.05.2024, wherein it was stated that “*the Court is unable to find any prima facie case which would warrant stay on operation of the Impugned Eviction Order*” and dismissed the application for stay.

5. Subsequently in a Review Petition filed by the Petitioner/tenant, a Coordinate Bench of this Court clarified that the order dated 15.04.2024 will not have bearing on the final outcome of the Revision Petition.

6. This Court has examined the Impugned Order as well.

7. So far as concerns the landlord-tenant relationship and the ownership of the subject premises, the same is not disputed before this Court. Learned Trial Court has held that the Petitioner/tenant did not deny that Petitioner is



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a tenant in the subject premises and has also admitted that Petitioner sent two bank drafts as rent for three years, with interest in favor of the Respondent No.1 and Respondent No.7 (who are co-owners). The Petitioner has also not disputed that the subject premises was initially owned by the predecessor in interest of the Respondent No.1 and Respondent No.7 and upon his demise the Respondent No.1 and Respondent No.7 became the co-owners of the subject premises.

7.1 This Court finds no infirmity with this finding of the learned Trial Court and thus this aspect of Section 14(1)(e) of the Delhi Rent Control Act, 1958 [hereinafter referred to as 'DRC Act'], thus stands satisfied.

8. So far as concerns the *bona fide* need, the same has not been disputed either before this Court or before the learned Trial Court. The need as set in the Eviction Petition is for Respondent Nos.1 and 7 to start a business of bakery and confectionery from the subject premises since they have extensive experience in the bakery business and are currently in need of employment. It is stated that the subject premises is required by the Respondent Nos.1 and 7 since previously Respondent No.7 is running his business from a tenanted premises and now an eviction order has been passed against the Respondent No.7. The learned Trial Court thus gave a finding in the Impugned Order that the need as set out by the Respondents is *bona fide*. No challenge on this aspect has been made by the Petitioner/tenant before this Court.

9. The aspect of availability of alternate suitable accommodation with the Respondent Nos.1 and 7 is not disputed before this Court by the Petitioner/tenant. In this regard the contention raised by the Petitioner/tenant



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before the learned Trial Court was that the Respondent Nos.1 and 7 own a number of properties which can be used for the purpose of their *bona fide* need. This contention was denied by the Respondent Nos.1 and 7. The learned Trial Court, after examining the contentions of both parties, held that the Petitioner/tenant failed to produce any document or any other material to substantiate this claim and hence no triable issue is raised *qua* availability of alternate accommodation. There is no challenge to this finding by the Petitioner/tenant before this Court.

10. As stated above, the only contention which has been raised by the Petitioner/tenant is that premises no.507 and 508A which are adjacent to the subject premises, and the subject premises, form part of a single continuous property, hence eviction from the subject premises would be a partial eviction, which cannot be allowed as per law. As stated above, this contention was previously also raised and rejected by the Coordinate Bench on 13.05.2024.

10.1 It is the contention of the Respondents/landlord that the Petitioner/tenant, in a civil dispute pertaining to the subject premises being suit no CS 61/1995 captioned as **Sh. Vakil Chand v. M/s. Shahdara Bakery** before Civil Judge, Delhi [hereinafter referred to as 'Civil Suit'], had filed a site plan of the subject premises showing the tenanted premises to be part of the subject premises and thus now the Petitioner cannot resile from his own admission in another proceeding.

11. The record reflects that the Eviction Petition has been filed for Ground Floor consisting of three shops, First Floor (Backside portion), Second Floor which comprises of a tin shed and open area, all part of property bearing no.



508 Teliwara, Shahdara, Delhi-32. Para 8 of the Eviction Petition setting out these details is reproduced below:

*8. Details of accommodation available together with particulars as regards ground area garden and out of houses if any (site plan to be attached):
Ground Floor consisting of three shops, First Floor (Backside portion), Second Floor which comprises of a tin shed and open area, all part of property bearing no. **508 Teliwara, Shahdara, Delhi-32 morefully shown in red colour in the site plan** annexed herewith as ANNEXURE-“A”.*

[Emphasis Supplied]

11.1 Quite clearly the Eviction Petition has been filed in respect of premises no. 508 only. Learned Trial Court has also passed an eviction order with respect to the subject premises only. The relevant extract is reproduced below:

*“10. The petitioners, on the other hand, have clearly explained their bona fide need in respect of the tenanted premises by stating that they want to start their family business of bakery. No alternative accommodation which may be suitable for that said purpose have been brought on record by the respondent. Consequently, no triable issue has been raised by the respondent. Leave to defend is declined. **The eviction order is passed in favour of petitioners and against the respondent thereby directing the latter to vacate the tenanted premises i.e. Ground Floor consisting of three shops, First Floor (Backside portion), Second Floor which comprises of a tin shed and open area, all part of property bearing no. 508, Teliwara, Shahdara, Delhi-32 as shown in red colour in the site plan filed by the petitioner in toms of Section 14 (1) (e) of the Delhi Rent Control Act.** However, as per stipulation u/s 14(7) DRC Act, the petitioner shall not be entitled to obtain possession thereof before the expiry of a period of six months from the date of this order.”*

[Emphasis Supplied]

12. It is clarified by the Respondents/landlords that the Civil Suit was filed by the erstwhile owner of the subject premises against the Petitioner/tenant in regards to the subject premises. This suit was settled by the erstwhile owner and the Petitioner/tenant by virtue of a Deed of Settlement dated 08.08.1997 wherein there is an admission by the



Petitioner/tenant of his tenancy in the subject premises. In addition, the site plan as filed by the Petitioner/tenant in the Civil Suit reflects the tenanted premises as the subject premises only. The properties adjacent to the subject premises and the subject premises have not been mentioned as being a single continuous property. The relevant extract of the Eviction Petition, which contains these details is set out below:

*"2. That Shri Vakil Chand in the year 1995 filed a Civil Suit for Injunction against the respondent before the Senior Civil Judge Delhi. The said Civil Suit was registered as CS 61/1995. The said Civil Suit was disposed of as compromised vide order dated 08/08/1997. **In the said Civil Suit Sh Vakil Chand had stated the respondent herein as a tenant only in respect of one shop but the respondent herein claimed of being tenant on Ground Floor, First Floor And Second Floor. In the compromise which was arrived between Sh Vakil Chand and the respondent herein, the main points of the said compromise are being reproduced herein under:-***

(i) Defendant is a tenant in the suit property;

(ii) The position as it exists on date regarding tenancy premises of the defendant shall not be disturbed;

(iii) Besides the defendant in future shall not raise any new construction or make any additions and alternations in the property. However, the defendant shall have a right to make necessary repairs to his tenancy premises and to its wood work already existing.

The certified copy of the Civil Suit bearing no. 61/1995, the Written Statement filed by the respondent, the Joint Application filed by Sh Vakil Chand and respondent under order 23 Rule (1) & (3) C.P.C exhibited therein as Ex C1, Statements of Vakil Chand and Krishan Lal dated 08-08-1997, Order dated 08-08-1997, Site plan filed by the Sh Vakil Chand and the respondent in the said suit are all annexed herewith collectively as "Annexure C".

[Emphasis Supplied]

12.1 This Court has examined the Written Statement filed by the Petitioner/tenant in the Civil Suit. The examination reflects that the Petitioner/tenant has in this pleading accepted that the subject premises and the properties adjacent to it are separate properties and not a single



contiguous property. The Petitioner/tenant has also stated in the Written Statement that the Respondent/landlord owned three properties bearing municipal Nos.507 and 508, situated in Teliwara Shahdara, Delhi and another property bearing municipal No.528, situated in Sara Bazar, Shahdara, Delhi. Clearly, the Petitioner/tenant has specified the subject premises as distinct property from the properties adjacent to it. There is no averment that the subject premises along with the properties adjacent to it forms a single and contiguous property. The relevant extract of the Written Statement dated 08.03.1995 as filed in the Civil Suit is set out below:

“Late Shri Sunder Dass and the plaintiff, owned three properties, two bearing municipal Nos.507 and 508, situated in Teliwara Shahdara, Delhi and another property bearing municipal No.528, situated in Sara Bazar, Shahdara, Delhi. Late Shri Sunder Dass by his aforesaid will, had given the life interest to his wife regarding fruits that accrued/are accruing and continuing to accrue till her death, in all the properties regarding his share. Late Shri Sunder Dass further bequeathed that after his death and the death of his wife, the aforesaid properties regarding his share shall equally devolve on his other brothers viz, the plaintiff, late Shri Amar Nath (then alive) and his other two brothers S/Shri Sri Ram and Hari Ram...”

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*On the ground floor pazing red portion, M/s Shahdara Bakery, proprietorship of Shri Krishan lal has the exclusive possession, this business also has the possession of 'red' portions on the first floor, through the vacant portion of the first floor, chimanies regarding Shatti of the Bakery below abut to a certain length, there are ventilaters and goods of the bakery regarding their business are lying in the tinshed and the room shown in red portion. On the second floor in 'red' portion, M/s Shahdara Bakery has the possession of a tinshed, a WC and a Gen-sex Room **On the ground floor portion marked with municipal No.507, is under the possession and the occupation of Shri Sri Ram, the adjoining portion, municipal No. 507, pertains to ground floor premises alone. On the first floor above, barring 'red' portion, wife of late Shri Sunder Dass is living. On the second floor barring 'red' portion, Shri Sri Ram having the possession of shop No.507, on the ground floor also has the possession of the room marked 'A' alone (though this is above No.507, Et forms part of Municipal N.508).**”*

[Emphasis Supplied]



13. The record also reflects that the Petitioner/tenant has not raised the plea of a single continuous tenancy in the leave to defend/contest application filed before the learned Trial Court. In fact, the Petitioner/tenant has in the leave to defend/contest application specified the three premises as distinct and adjacent to each other. The relevant extract of the leave to defend application is reproduced below:

“9. That in all suits one, filed in the year, 1995, another filed in the year, 2010 and third in the year, 2015, respondent had taken consistent pleas such as (i) that the premises in possession of Shahdra Bakery, did not form of one property; (ii) that plaintiff throughout have been., playing mischief with rent receipts and (in) after the demise of Smt Veeran Wall, wife of late Shri Sunder Dass, property numbers 508A and 507 Teliwara Shahadra, Delhi and third half of Bara Bazar property bearing no.528/1 A, with Vakil Chand, became the properties of late Shri Vakil Chand/Late Amar Nath/late Sri Ram/living Hari Ram, to the extent of 25% share in each property, became the properties of said four brothers.”

[Emphasis Supplied]

14. In view of the foregoing discussions, the plea of the Petitioner/tenant that the three properties constitute single continuous property and that the Respondents are seeking partial eviction of the Petitioner/tenant from the subject premises is without any merit.

15. Section 14(1)(e) of the DRC Act states as follows:

“14(1)(e) that the premises let for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation;”

15.1 In order to make out a case under Section 14(1)(e) read with Section 25B of the DRC Act, the landlord is required to prima facie show the following:

“(i) Existence of landlord/tenant relationship;



- (ii) Existence of *bona fide* need on the part of the landlord and;
(iii) Non-availability of reasonable suitable alternative accommodation with the landlord.”

16. As stated above, the landlord-tenant/ownership of the subject premises is established. In any event, the same has not been disputed before this Court.

16.1 So far as concerns the *bona fide* need the Petitioner/tenant has failed to raise any ground to controvert the same.

16.2 Availability of alternate suitable accommodation with the Respondents/landlords, has also not been challenged by the Petitioner/tenant before this Court.

17. The jurisdiction of this Court is only revisionary in nature and limited in scope. The Supreme Court in *Abid-Ul-Islam v. Inder Sain Dua*¹ 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-*

¹ (2022) 6 SCC 30



Ul-Islam case in the following manner:

“Scope of revision

“22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.

*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 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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***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]

18. The learned Trial Court has examined the contentions as raised by the Petitioner/tenant and has found that no triable issue has been raised. The examination by this Court does not show anything to the contrary. As stated above, the revisionary jurisdiction of this Court is limited and circumspect.



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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. Given the fact that the ingredients of Section 14(1)(e) of the DRC Act have been satisfied, this Court finds no infirmity in the Impugned Order.

19. The Revision Petition is accordingly dismissed. Pending Application stands closed.

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

TARA VITASTA GANJU, J

FEBRUARY 4, 2025/jn

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