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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RC.REV. 652/2019, CM APPL. 18518/2020
ANOOP ARORAPetitioner

Through: Mr. Kunal Kalra, Adv.

Versus

M/S RD STEEL CORPORATIONRespondent

Through: Mr. Siddharth Aggarwal, Adv.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **03.12.2025**

1. The petitioner/ landlord¹ filed an Eviction Petition being E.P. No.482/ 2017 under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958² before the learned Additional Rent Controller (Central), Delhi³ seeking eviction of the respondent/ tenant⁴ from Shop No. 4079-A, Kuncha Diiwaii Singh, Ajmeri Gate, Delhi-110 006⁵.

2. *Succinctly put*, it was the case of the landlord before learned ARC that the tenant was inducted in the subject premises by his late father. After his demise, the tenant started paying rent to him @ of Rs. 93.5 paise per month from 01.04.2005 to 31.03.2011 *vide* rent receipt(s), thereby admitting the *landlord tenant relationship* between them. It was also his case that a *bona fide requirement* for the subject premises arose as his son intended to commence a business of selling firefighting equipments, as also there was no other suitable *alternative accommodation* available with him for the said purpose.

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*'



3. Upon service of summons, the tenant filed an application seeking leave to defend under *Sections 25B(4) and (5)* of the DRC Act disputing the *landlord tenant relationship* between them contending that the rent receipts filed by the landlord were fabricated; that the son of the landlord was still a student and he had no intention to start any business in the near future and there was one shop lying vacant, possession of which has recently been taken by the landlord and thus there was an *alternative accommodations* available with the landlord.

4. Thereafter, though the landlord's brother, Sh. Satya Narain Arora⁶ moved an application under *Order I rule 10* of the Code of Civil Procedure, 1908 (*CPC*) claiming that he required the property for his own *bona fide* need, the same was dismissed *vide* order dated 20.09.2017. Relevantly, the same has become final and binding since there was no challenge thereto by the said brother, who, instead filed an Eviction Petition being *E.P. No.801/17* independently *qua* the same subject premises.

5. However, to bring on record the subsequent facts arising therefrom, the tenant filed an application for taking them into consideration, which was allowed *vide* order dated 19.02.2018 passed by the learned ARC, whereafter, the application seeking leave to defend of the tenant was allowed *vide* order dated 15.03.2018 and the Eviction Petition was then listed for recording of the landlord's evidence.

6. Subsequently, an application under *Order VII rule 11* and *Order XII rule 6* read with *Section 151* of the CPC of the tenant was dismissed by the

⁶ Hereinafter referred to as '*brother of the landlord*'



learned ARC *vide* order dated 18.12.2018, however, based on the averment made by the brother of the landlord in the already dismissed application under *Order I rule 10* of the CPC, the learned ARC fixed the matter for recording of statement of the landlord and the said brother under *Order X rule 2* of the CPC before proceeding further with recording of the evidence.

7. Upon recording the statement of the said brother of the landlord under *Order X rule 2* of the CPC, the learned ARC *vide* order dated 24.12.2018⁷, dismissed the Eviction Petition of the landlord on the ground that the said brother being a co-owner had an objection to the filing of the aforesaid Eviction Petition by the landlord and as per settled law, the same was not maintainable.

8. Aggrieved by the impugned order dated 24.12.2018 passed by the learned ARD, the landlord has preferred the present revision petition seeking setting aside of the impugned order.

9. It is primarily the case of learned counsel for the landlord that after dismissing the application under *Order I rule 10* of the CPC filed by the brother of the landlord *vide* order dated 20.09.2017, as also dismissing the application under *Order VII rule 11* and *Order XII rule 6* read with *Section 151* of the CPC filed by the tenant *vide* subsequent order dated 18.12.2018, the learned ARC could not have proceeded to pass the impugned order. More so, since they both remained unchallenged and had attained finality. The learned counsel then submits that the landlord, in any event, was not given a chance to cross-examine his brother. In effect, the learned counsel seeks setting aside of the impugned order for the above



reasons.

10. *Per contra*, learned counsel for the tenant submits that the learned ARC has correctly, by noting and taking cognisance of the objection(s) of the co-owner under *Order X rule 2* of the CPC, who was the brother of the landlord and in view of the settled legal principle as held in ***Indian Umbrella Manufacturing Co. vs. Bhagabandei Agarwalla***: (2004) 3 SCC 178 and, ***Mohinder Prasad Jain vs. Manohar Lal Jain***: (2006) 2 SCC 7, dismissed the Eviction Petition of the landlord. The learned counsel thus, submits that the impugned order needs no interference by this Court.

11. Heard learned counsels for the parties, as also perused the documents and pleadings on record and judgements cited by them.

12. It is an admitted fact that both orders dated 20.09.2017 and 18.12.2018, whereby the application(s) under *Order I rule 10* of the CPC of the brother of the landlord and under *Order VII rule 11* and *Order XII rule 6* read with *Section 151* of the CPC of the tenant were respectively dismissed by the learned ARC, being unchallenged had indeed attained finality. Therefore, considering the timeline involved in the order(s) and the impugned order, it was too late in the day for the learned ARC to have taken that route.

13. Furthermore, since the impugned order was passed at the stage of commencement of trial, it was once again too late for the learned ARC to have summoned the brother of the landlord. Reliance is placed upon ***Hunny Sharma & Ors. Vs. Ved Prakash Sharma & Anr.*** 2020 SCC OnLine Del 3071, wherein it has been held that *Order X* CPC the statement recorded thereunder does not take the character of evidence

⁷ Hereinafter referred to as '*impugned order*'



unless the same is duly proved in accordance with law and tested through cross-examination.

14. *De hors* the above, the learned ARC has ended up summoning the brother of the landlord *suo moto* under *Order X rule 2* of the CPC without giving any plausible, if not sufficient, reasons to do so. That too, whence the provisions of CPC are not *stricto sensu* applicable to the proceedings under the DRC Act. By doing so, the learned ARC has clearly overstepped its jurisdiction.

15. The provision of *Order X rule 2* of the CPC is to, *primarily*, separate the grain from the chaff for clarifying/ streamlining the underlying issue with respect to the *lis* before it and is to be used sparingly, certainly not as a recourse merely because it is available. If that be the case, then the whole purpose of trial and a party ‘*proving*’ and/ or ‘*defending*’ the case would be rendered nugatory. *Order X rule 2* of the CPC is not an instrument for seeking admissions to (dis)prove such controversy and/ or otherwise adjudicate upon the right(s) or obligation(s) of any party. In fact, whilst examining the ambit of *Order X rule 2* of the CPC, the Hon’ble Supreme Court in the landmark judgment entitled ***Kapil Corepacks Pvt. Ltd. & Ors. vs. Harbans Lal (D) thr. Lrs.***: (2008) 8 SCC 452 has held as under:-

“15. The object of oral examination under Rule 2 of Order 10 is to ascertain the matters in controversy in suit, and not to record evidence or to secure admissions. The statement made by a party in an examination under Rule 2 is not under oath, and is not intended to be a substitute for a regular examination under oath under Order 18 of the Code. It is intended to elucidate what is obscure and vague in the pleadings. In other words, while the purpose of an examination under Rule 1 is to clarify the stand of a party in regard to the allegations made against him in the



pleadings of the other party, the purpose of the oral examination under Rule 2 is mainly to elucidate the allegations even in his own pleadings, or any documents filed with the pleadings. The power under Order 10 Rule 2 of the Code, cannot be converted into a process of selective cross-examination by the court, before the party has an opportunity to put forth his case at the trial... ..”

[Emphasis Supplied]

16. In fact, by passing the impugned order, the learned ARC has furthered the cause of the tenant by raising his case from the dead ashes, more so, since it was a closed chapter.

17. In the wake of all the above, there is a clear infirmity in the impugned order dated 24.12.2018 due to incorrect application of *Order X rule 2* of the CPC by the learned ARC. As such, in view of what has held in *Sarla Ahuja vs. Union India Insurance Company Ltd.:* (1998) 8 SCC 119 and *Abid-ul-Islam vs. Inder Sain Dua:* (2022) 6 SCC 30, the present petition is allowed and the impugned order dated 24.12.2018 passed by the learned ARC is set aside.

18. Accordingly, the Eviction Petition being *E.P. No.482/2017* filed by the landlord under *Section 14(1)(e)* of the DRC Act, is remanded back for adjudication fresh by the learned ARC from the stage of commencement of trial therein.

19. A copy of the present order be sent to the learned Principal District & Session Judge, District-Central, Tis Hazari Courts, Delhi for information and compliance.

SAURABH BANERJEE, J

DECEMBER 3, 2025/bh