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

+ RC.REV. 698/2019

KULJIT SINGH

.....Petitioner

Through: Mr. Manjit Kumar Tomar, Advocate.
versus

KISHAN VEER SINGH

.....Respondent

Through: Mr. Anand Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

10.07.2025

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By way of the present revision petition filed under section 25(B) (8) of the Delhi Rent Control Act 1958 ('DRC'), the petitioner impugns judgment dated 12.09.2019 passed by learned Senior Civil Judge-cum-Rent Controller, Karkardooma Courts, Shahdara whereby an eviction petition bearing No. RC/ARC No. 1325/16 filed by the petitioner seeking eviction of the respondent under section 14(1)(e) of the DRC Act has been dismissed. The property of which eviction was sought was a Shop situate in property bearing No.1449/225 Durga Puri, Shahdara, Delhi ('subject premises').

2. Notice on this petition was issued on 17.12.2019.
3. Reply dated 20.08.2024 has been filed by the respondent.
4. The court has heard learned counsel appearing for the parties at length.
5. Mr. Manjit Kumar Tomar, learned counsel appearing for the petitioner submits, that leave-to-defend was granted *vide* order dated



06.01.2019, whereupon a full-dressed trial was conducted in the matter.

6. He points-out that in the course of his cross-examination recorded on 24.05.2019, the petitioner appearing as PW-1 made the following deposition:

“It is correct that property bearing no.1449/224 belongs to me but property bearing no.1449/225-A does not belong to me. I have a truck bearing no. HR55W.6647 and the same is driven by driver. The truck is taking business from transporters on commission basis. One of the transporters name is AG transporters, 6 milestone, Apsara Border, Sikandara Pur, Ghaziabad. It is wrong to suggest that I am the proprietor of AG transporters carrying the business from 6 milestone, Apsara Border, Sikandara Pur, Ghaziabad. I used to do transport business from my house. I am doing this work from the last 10 years. My family consists of my wife and two, children. I do not know what is the work of respondent. It is wrong to suggest that I have rental income from my residential property. The area of my property bearing no. 1449/224, Durgapuri, Shahdara, Delhi-32 is measuring 200 sq.yds.

Q:- How much area of property bearing no.1449/225-A, Durqa Puri, Shahdara, Delhi is in your possession?

A:-My father had sold the said property.

The area of property bearing no.1449/225, Durqa Puri, Shahdara, Delhi is 200 sq.yds. which is in my possession. There are only two shops constructed in property bearing no. 1449/225, Durqa Puri, Shahdara, Delhi is 200 sq.yds. It is wrong to suggest that I have no bonafide need of the suit property since I have settled business. It is wrong to suggest that I have filed false affidavit.”

(emphasis supplied)

7. Counsel submits, that thereafter the petitioner cross-examined the respondent, who appeared as RW-1; and it is the petitioner’s contention that RW-1 admitted the petitioner’s case in the following terms:

“I am 8th class pass. I am tenant in the suit property for last 43 years. The suit property is a shop. I do not reside in the suit property. It is correct that the photographs already exhibited as Ex. PW1/7 (colly) are of suit property. **It is correct that no document**



has been filed qua, the allegation that petitioner has three properties in his name. I myself have seen the three properties of petitioner. I cannot tell about the source of knowledge regarding the said three properties of petitioner as mentioned in my affidavit Ex. RW1/A. It is correct that property no. 1449/224 is petitioner's residential property and 1449/225 is commercial property of petitioner where I am tenant. It is correct that site plan Ex. PW1/2 is correct as per site. It is correct that property no. 1449/225/A was already sold by the father of petitioner. It is correct that petitioner's father had expired. It is correct that except the abovesaid two properties, petitioner is not having any other property. I do not know whether petitioner is suffering from ankylosing spondylitis due to which petitioner has problem in movement. It is wrong to suggest that petitioner wants to open his business in the suit property to meet out his family expenses which can be look after by his family as well. I do not know whether petitioner's wife is, housewife. It is correct that both children of petitioner are school going. It is wrong to suggest that I have filed false affidavit."

(emphasis supplied)

8. Counsel submits that accordingly, in the course of his cross-examination RW-1 clearly admitted the following :
 - 8.1. That the respondent had failed to file any document to substantiate his allegation that the petitioner has 03 properties in his name.
 - 8.2. That property No.1449/224 is the petitioner's residential property; and the subject premises is a commercial property in which the respondent is the petitioner's tenant.
 - 8.3. That property bearing No.1449/225A was already sold by the petitioner's father; and that except the aforesaid 02 properties i.e., property Nos. 1449/224 and 1449/225 (subject premises), the petitioner does not have any other property.
9. Counsel argues therefore, that the question of the petitioner not having any suitable, alternate accommodation stood answered; and



the only question that survived was whether the petitioner had been able to establish his *bona-fidé* requirement. In this behalf, it is argued that in his eviction petition, in particular in para 18, the petitioner had narrated the following:

“That the Petitioner has now to meet the expenditure wants to start business wherein the wife of the petitioner may also handle the business of the petitioner from the said premises as the said premises is adjacent to the residence of the Petitioner.”

10. In response thereto however, it is pointed-out that during his cross-examination, the respondent merely offered a bald denial, stating that it was wrong to suggest that the petitioner intended to open a business in the subject premises to meet his family expenses. At the same time, the respondent admitted that he was aware that both the petitioner’s children are school-going, but claimed ignorance as to whether the petitioner’s wife was a housewife.
11. Counsel argues, that such bald denials carry no credence, and therefore, the petitioner’s assertion that he needed the subject premises *bona-fidé* for running a business, also stands established.
12. In this backdrop, counsel for the petitioner submits that the learned Rent Controller has proceeded to dismiss the eviction petition on the following erroneous grounds:

“11.1 First ground is that petitioner is well settled in his business of transportation. RW1 has deposed that petitioner is running his business of transportation and spare parts and PW1 admitted that he is doing transport business from his house for the last ten years. In view of the same said defence stands proved.

11.2 Coming to the second ground RW1 has deposed that petitioner is having three other properties as well as three shops in his name out of which he has sold one shop. PW1 has admitted that he is the owner of property bearing no-1449/224, Durga Puri, Shahdara, Delhi admeasuring 200 sq. yards. He has further



*admitted that the area of the suit property is about 200 sq. yards in which only two shops have been constructed. Further PW1 has relied-on site plan Ex. PW1/2 which is showing the area except the said two shops as vacant. In view of the same, **respondent is able to establish that petitioner has alternative accommodation available.***

(emphasis supplied)

13. On the other hand, Mr. Anand Kumar, learned counsel appearing for the respondent seeks to support the conclusions arrived at by the learned Rent Controller, submitting that since the evidence revealed that the petitioner had been running his transport business from his residence at property No.1449/224, he evidently had no *bona-fidé* need for the subject premises.
14. It has further been argued on behalf of the respondent, that during the pendency of the eviction petition, the second shop situate in property No.1449/225 was also vacated by another tenant, pursuant to a settlement with the petitioner. Counsel argues that the petitioner has admitted that there were two shops in the subject premises.
15. In these circumstances, it is argued that the availability of the second shop which fell vacant during the pendency of the present eviction petition, negates the *bona-fidé* requirement for the shop that is currently in the use and occupation of the respondent.
16. Upon a conspectus of the depositions of the witnesses referred to above; on perusing the impugned eviction order; and based on the submissions made by learned counsel appearing for the parties, this court is of the view that the conclusions arrived at by the learned Rent Controller are entirely misconceived and misplaced.
17. This court is unable to appreciate as to how PW-1's deposition that he had been conducting his transport business *from his house for the last*



10 years, led the learned Rent Controller to conclude that the respondent's "*defence stands proved*"; and that the petitioner did not *bona-fidé* require the subject premises, which is a *commercial premises*, for running his business.

18. Clearly, the fact that the petitioner had been running a business from his residential accommodation does not in any manner diminish his requirement to run that business from his commercial premises, viz., from the subject premises.
19. Furthermore, this court is also unable to understand how the learned Rent Controller proceeded to accept that: "*RW-1 has deposed that petitioner is having three other properties as well as three shops in his name out of which he has sold one shop*", when in his cross-examination RW-1 had clearly admitted that: "*It is correct that no document has been filed qua, the allegation that petitioner has three properties in his name. I myself have seen the three properties of petitioner. I cannot tell about the source of knowledge regarding the said three properties of petitioner as mentioned in my affidavit Ex. RW1/A.*"
20. Furthermore, in the course of his cross-examination, RW-1 had also admitted that property No.1449/225 is a commercial property, while property No.1449/224 was the petitioner's residential property; and that property No.1449/225A had already been sold by the petitioner's father.
21. The conclusion to the contrary recorded in the impugned order as to availability of suitable, alternative accommodation in the petitioner's hands, is therefore a complete non-sequitur.



22. In view of the forgoing, all three essential ingredients required under section 14(1)(e) of the DRC Act - namely, (i) landlord-tenant relationship (ii) *bona-fidé* requirement; and (iii) lack of suitable, alternate accommodation stand proved in favour of the petitioner. The impugned order is therefore misconceived and untenable; and is hereby set-aside.
23. Since the impugned order is dated 12.09.2019, clearly the 06 months' moratorium period under section 14(7) of the DRC Act against executing that order has already elapsed, and the petitioner is accordingly entitled to immediately obtain recovery of possession of the subject premises, in accordance with law. Let the petitioner file an appropriate execution petition before the concerned court, which shall be decided by the learned executing court expeditiously.
24. The revision petition is allowed in the above terms.
25. Pending applications, if any, stand disposed-of.
26. Needless to add, the petitioner shall also be at liberty to initiate proceedings for recovery of arrears of rent and use and occupation charges, as may be permissible, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

JULY 10, 2025

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