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

+ **RC.REV. 152/2016**

MOHD ASIF

.....Petitioner

Through: Mr. R.M. Bagai and Mr. Mohd.
Yasim, Advocates.

versus

**VIMAL PRABHA DEWAN (DELETED SINCE DECEASED) &
ANR**

.....Respondents

Through: Mr. Hitendra Kumar Nahata and Mr.
Kajol Kumar, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

17.07.2025

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The court has heard Mr. R.M. Bagai, learned counsel appearing for the petitioner as well as Mr. Hitendra Kumar Nahata, learned counsel appearing for the respondents at some length.

2. It transpires that the impugned order, whereby leave-to-defend was granted to the respondents, is dated 08.12.2015.
3. Mr. Bagai argues that the learned Rent Controller had taken a view against the petitioner (landlord) only on one aspect, viz., as regards availability of alternate accommodation. In this behalf, Mr. Bagai has drawn attention to the following portion of the impugned order:

“13. ... Thus, the ownership of the petitioner over the tenanted premises as well as existence of landlord-tenant relationship between the petitioner and the respondents is clearly established and being the tenants, the respondents are estopped u/s 116 of the Indian Evidence Act from disputing the title of the petitioner over the tenanted premises.

“14. ... Since the petitioner has placed on record the copy of the Rent Agreement as well as Registration Certificate of the firm



of his son, it is clear that presently, the son of the petitioner is carrying on his business from a rented accommodation and thus, the bonafide requirement of the petitioner to enable his son to start his own independent business from the premises owned by the petitioner himself stands duly proved. However, the respondents have averred that the petitioner has various other properties in his ownership which can be used by the son of the petitioner to start his own independent business of Perfumes and Fragrance. Even in the compromise decree arrived at (sic) between the petitioner and his siblings, it is clear that the petitioner is the owner of several properties, in addition to premises in question. It is stated by the petitioner in his reply to leave to defend application that all the properties which came to the share of the petitioner are under tenancy of different tenants. However, no rent agreement or rent receipt has been placed on record to substantiate the said plea by the petitioner and thus, triable issue is raised with respect to availability of alternative suitable accommodation with the petitioner to enable his son Sh. Faizan Asif to start his own business of Perfumes and Fragrance as it has been established from the compromise decree dated 13.08.2001 that the petitioner has in his ownership several other properties, in addition to premises in question which can be used by the petitioner to enable his son start his business. No evidence or proof has been filled by the petitioner to substantiate that the said properties are not under possession of the petitioner.

(emphasis supplied)

4. Mr. Bagai accordingly argues, that the learned Rent Controller has erred in concluding that because the petitioner is owner of certain premises, which he had received from his family under a compromise decree, those premises are also available to the petitioner.
5. Furthermore, Mr. Bagai has drawn attention to the reply filed by the petitioner to the leave-to-defend application filed by the respondents, in particular to para '2t' thereof, which reads as under:



“2t. That para 2(t) of the affidavits of the respondents, as stated, is not admitted. It is admitted that the petitioner became the owner of the property mentioned in the compromise application filed by the petitioner in Civil Suit No.760/2001 which was pending before the Hon’ble High Court, but it is not admitted that the petitioner has concealed any fact from this Hon’ble Court. It is submitted that all the properties except the property No.912 to 914, Sheesh Mahal, Azad Market, Delhi-110006 which is the residence of the petitioner mentioned at serial No.IX in the para under reply, are occupied by tenants and sub tenants and none of the property is in possession of the petitioner except property no.912 to 914 which is in possession of the petitioner as it is the residence of the petitioner and the petitioner is not bound in law to mentioned the properties in possession/occupation of tenants or sub-tenants. It is submitted that the respondents have mentioned themselves in the para under reply that there are more than 10 tenants of the petitioner in premises no. 10115 (sic) and these facts are concealed by the petitioner from this Hon’ble Court. It is submitted that the petitioner has to disclose only those premises which are available for his use and occupation and for the use of his family members. The premises occupied by the tenants are not required to be disclosed by the petitioner in a petition for bonafide requirement.”

(emphasis supplied)

6. Mr. Vijendra Kumar Singh, learned counsel appearing for the respondents has controverted the submissions made by Mr. Bagai, to argue that in any event, in the course of the trial before the learned Rent Controller, evidence has come on record which contradicts the petitioner’s contention that he is the owner or the landlord of the subject premises. Mr. Singh further maintains, that the petitioner has suitable alternate accommodation available with him.
7. Needless to add, Mr. Bagai disputes that any such contrary evidence has come on record in the course of trial.



8. The court has been informed that during the pendency of the present petition, the trial before the learned Rent Controller has proceeded; evidence is complete; and the matter is listed next before the learned Rent Controller for final arguments on 06.08.2025.
9. In the foregoing circumstances, the main consideration that prevail with this court is that while the present revision petition has been pending for the last 10 years, the trial before the learned Rent Controller is now complete. This court is also persuaded by the contention that since the petitioner had not given any specifics or details as to who was in occupation of the alternate accommodation that was admittedly available to the petitioner under a compromise decree, a triable issue was made-out, if only to that extent.
10. In view of the above, there is no basis to hold that the impugned order granting leave-to-defend to the respondent was not in accordance with law.
11. The present revision petition is accordingly dismissed.
12. However, in view of the long pendency of the matter and the fact that the respondents have admittedly been in possession of the subject premises *at least from 1950* at a less-than-paltry rent of Rs. 10/- *per month*, the learned Rent Controller is directed to conclude the matter as expeditiously as possible and in any event within 02 months from the next date of listing before that forum, *i.e.* 06.08.2025.
13. The petition is disposed-of in the above terms.
14. Pending applications, if any stand disposed-of.
15. Needless to add, either party shall be at liberty to file appropriate proceedings before this court, challenging the order that may be



passed by the learned Rent controller, if the need so arises, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

JULY 17, 2025

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