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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 14.02.2025*+ **RC.REV. 312/2024 & CM APPL. 64713-64714/2024****NIRA GARG**

.....Petitioner

Through: Mr. Sujoy Datta, Ms. Nishtha
Khurana, Ms. Mahima Shekhawat &
Ms. Aayushi Jain, Advocates.

versus

OM PRAKASH GROVER

.....Respondent

Through: Ms. Tara Chand Gupta, Advocate.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM APPL. 64713/2024 [seeking condonation of delay]**

1. This is an Application filed on behalf of the Petitioner seeking condonation of 445 days' delay in refiling the Revision Petition.
2. Notice in this Application was issued by this Court on 05.11.2024.
3. Learned Counsel for the Petitioner reiterates his contention as were made on the last date of hearing that the Petitioner is an octogenarian and the Petitioner had entrusted the file of this matter to his previous counsel.
4. Learned Counsel for the Petitioner further submits that the Petition seeking to challenge to the Impugned Order was filed before this Court on 17.07.2023 and the matter was thereafter was marked for defects. However, the defects were not removed by the previous counsel. It is further contended that the Petitioner was informed by the previous counsel that the matter is proceeding, however, thereafter the previous counsel stopped



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responding to the Petitioner, and on 09.08.2024, the Petitioner applied for certified copy of the records from the learned Trial Court and appointed a new counsel who informed her that the matter has been lying in defects for over a year. The defects were removed and it took some time thereafter. The matter was listed before this Court on 05.11.2024.

5. Learned Counsel for the Petitioner further submits that the Petitioner was constrained to also make a complaint against the previous counsel before the Bar Council of Delhi [hereinafter referred to as 'BCD'].

6. Learned Counsel for the Petitioner submits that the Petitioner has bonafide reasons for the delay.

7. The only contention that is raised by the Respondent is that no document has been annexed with the present Application evidencing a complaint made to the BCD. However, no reply has been filed to this Application despite an opportunity given.

8. It is settled law, that the limitation period for filing of a Revision Petition under Section 25-B(8) of the DRC Act is a period of three years from the date the Eviction Order is passed. A Coordinate Bench of this Court in ***Jai Prakash v. Jean Conea***¹ has held that since there is no period of limitation provided for a petition under Section 25-B(8) of the DRC Act, the limitation as is prescribed in Article 137 of the Limitation Act, 1963 [hereinafter referred to as the "Limitation Act"] is applicable which provides that the period of limitation is three years from the date when the right to sue accrues. The relevant extract of ***Jai Prakash*** case is below:

"(5) The matter came up for consideration before the Supreme Court in The

¹ MANU/DE/0465/1980



*Kerala State Electricity Board vs . i.P. Kunhaliumma MANU/SC/0323/1976 :[1977]1SCR996 . After referring to its earlier decisions, the Supreme Court differed with the earlier view taken by it in Athani Municipal Council Case (Supra) and held that Article 137 of the Limitation Act, 1963, is not confined to applications contemplated by or under the CPC. The interpretation, which was given to Article 181 of the Limitation Act, 1908, was held to be not applicable with regard to Article 137 of the Limitation Act, 1963. In view of this latest pronouncement of Supreme Court in The Kirala case (Supra), it seems that application or petition under any law for which no period of limitation is provided elsewhere in the Third Division of the Limitation Act is governed by Article 137 of the Limitation Act, 1963. The petition under Section 25-B(8) of the Act is a revision petition to this court, and no period of limitation is specified in the Third Division of the Limitation Act and as such Article 137 of the Limitation Act is applicable. This Article provided that any other application for which no period of limitation is provided elsewhere in this division i.e. Third Division of the Schedule of the Limitation Act, the period of limitation is three years from the date when the right to apply accrues. **Thus I am of the view that the revision petition under the proviso to sub-section (8) of Section 25-B of the Act is governed by Article 137 to the Limitation Act.** The impugned order of the Controller was passed on 29th April, 1978 and the present revision petition was filed on 17th May, 1980 and as such the revision petition seems to be within time, ... ”*

[Emphasis supplied]

8.1 In the case of ***Sudesh Kumar Bansal v. Ajay Saini and Ors.***² a Coordinate Bench of this Court has held that rent revision is covered under Article 137 of the Limitation Act and the limitation period is three years from the date of the impugned order. The relevant extract is reproduced below:

*"3. Learned counsel further submits that in any event this being a rent revision, is covered by **Article 137 of the Limitation Act and the limitation period is three years from the impugned order and even if it is calculated from the date of re-filing the petition is within time.***

***4. In view of the above and for the reasons stated in the application, the delay in re-filing is condoned.** The application stands disposed of."*

[Emphasis supplied]

² 2019 SCC OnLine Del 10437



8.2 This Court by its order dated 11.12.2024 in RC.REV.375/2024 captioned as *Daljeet Auto Centre vs. Jagmohan Singh Bakshi* has also passed a similar order. The relevant extract of *Daljeet Auto Centre* case is reproduced below:

“5. The question of limitation for filing a Petition under Section 25-B(8) of the Delhi Rent Control Act, 1958 was decided by a Coordinate Bench in Jai Prakash v. Jean Conea [1981 RLR 152]. It was held therein that Revision Petition shall be governed by Article 137 of the Limitation Act, 1963 which provides for a period of three years to file a Petition. This position holds good even today. In these circumstances, the Petition filed within six months of the Impugned Order is within time.”

[Emphasis Supplied]

9. The order impugned in the present Petition is dated 06.12.2022. In view of the settled law, the limitation to file a Revision Petition before this Court would expire on 05.12.2022. Concededly, the Petition has been filed, refiled and listed prior to the expiry of the period of limitation. Thus, this Court finds it apposite to condone the delay in re-filing the present Petition.

10. The Application is accordingly disposed of.

RC.REV. 312/2024 & CM APPL. 64714/2024 [for stay]

11. The present Petition has been filed by the Petitioner seeking to impugn order dated 06.12.2022 passed by Ld. SCJ cum RC, Shahdara District, Karkardooma Courts, Delhi, in Eviction Petition being E. No. 81/2021 [hereinafter referred to as “Impugned Order”]. By the Impugned Order, the leave to defend filed by the Respondent has been allowed.

12. Learned Counsel for the Petitioner submit that so far as concerns the landlord-tenant relationship and the ownership, the same has not been disputed. Learned Counsel for the Respondent confirms this contention.

13. The bonafide need as set out in the Eviction Petition is for the need



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of the grandson of the Petitioner who is a medical practitioner and requires the tenanted premises to open a clinic. Learned Counsel for the Respondent, on instructions from the Respondent, also confirms that as is set out in the Leave to Defend/Contest Application, the *bona fide* need is not disputed.

14. Learned Counsel for the parties jointly submit that the challenge in the present Petition is only with respect to the availability of alternate suitable accommodations. The alternate suitable accommodations available with the Petitioner have been set out by the Respondent in paragraph 2 of the Affidavit filed along with his Leave to Defend/Contest Application.

15. Thus, the only aspect which requires examination before the learned Trial Court is on the aspect of availability of alternate suitable accommodation with the Petitioner, which accommodations are set out in paragraph 2 of the Leave to Defend/Contest Application filed by the Respondent.

16. Learned Counsel for the parties submit that the pleadings before the learned Trial Court have already been completed in the matter and now the matter is fixed for the parties to lead evidence.

17. The parties jointly submit that the Petition may be disposed of limiting the adjudication before the learned Trial Court to the availability of the 3 (three) alternate accommodations, which are set out in paragraph 2 of the Affidavit filed along with the Application for Leave to Defend/contest filed by the Respondent.

18. Accordingly, with the consent of the parties, the following directions are passed:



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- (i) The examination by the learned Trial Court is limited to the aspect of availability of 3 (three) alternate suitable accommodations which is set out in paragraph 2 of the Affidavit filed along Leave to Defend/Contest Application.
- (ii) The parties shall not take any unnecessary adjournments before the learned Trial Court;
- (iii) The Petitioner shall commence and conclude his evidence within three months from today;
- (iv) The Respondent shall also commence and conclude his evidence within three months thereafter.

19. The Parties are bound down to the statement made by their Counsel before this Court.

20. The Petition is accordingly disposed of. All pending Applications also stand closed.

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

TARA VITASTA GANJU, J

FEBRUARY 14, 2025/ ha/jn

Click here to check corrigendum, if any