



2025:DHC:10207



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

% **Date of decision: November 18, 2025**

+ **RC.REV. 363/2025**

SHRI DHARMA PRATAP KOHLI

.....Petitioner

Through: Mr. Saurabh Seth, Ms. Sumeera Seth, Ms. Neelampreet Kaur, Mr. Abhiroop Rathore, Mr. Kabir Dev and Mr. Sukhvir Singh, Advs.

Versus

MRS SAROJ JAIN

.....Respondent

Through: Mr. Arun Birbal and Mr. Himanshu Anand, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (ORAL)

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1. Since the respondent has entered appearance, the caveat stands discharged.

RC.REV. 363/2025, CM APPL. 72311/2025 and CM APPL. 72312/2025

2. By virtue of the present revision petition, the petitioner¹ seeks setting aside of the impugned judgment dated 21.07.2025² passed by the learned ARC-02 (Central), Tis Hazari Courts, Delhi³ in RC/ ARC No. 80165/2016, whereby the Eviction Petition under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958⁴ filed by the respondent⁵ has been allowed by the learned ARC and the tenant is directed to vacate the *shop with four*

¹ Hereinafter referred to as "*tenant*"

² Hereinafter referred to as "*impugned judgment*"

³ Hereinafter referred to as "*learned ARC*"

⁴ Hereinafter referred to as "*DRC Act*"

⁵ Hereinafter referred to as "*landlady*"



doors situated at the ground floor of property bearing no. 4418, main Nai Sarak, Delhi-110 006⁶.

3. It was the case of the landlady in the Eviction Petition that having purchased the subject premises from Sh. Harish Chand Verma and two others through a registered Sale Deed dated 03.12.1985, she was the owner and landlady thereof. The original tenant thereof, late Dr. S.K. Kohli is survived by a son and a daughter, and thus the tenancy rights *qua* the subject premises devolved upon the tenant by operation of law. It was also her case that since her husband and sons did not have adequate space to conduct their business, other than the narrow stairway portion currently available to them, as also her sons also wish to join their father's business, a *bona fide requirement* arose for the subject premises, since there was no other suitable *alternative accommodation* in Delhi available with them.

4. Upon being served, the tenant filed an application under *Section 25B (4)* of the Act seeking leave to defend, wherein, primarily it was the case of the tenant that there he had not been attorned, and he was unaware of the sale of the property wherein the subject premises is situated. It was also his case that since the property where the subject premises is situated falls in the slum area, a permission for eviction as per the Slum Areas (Improvement and Clearance) Act, 1956 is required, which, since has not been taken, the Eviction Petition was liable to be dismissed. It was also the case of the tenant that as the husband of the landlady passed away during the pendency of the *lis*, the *bona fide requirement* stood extinguished as also there were other *alternative accommodations* available with the landlady to address her requirement.

⁶ Hereinafter referred to as "*subject premises*"
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5. After hearing both sides, the learned ARC passed the order dated 09.03.2011 granting leave to defend and directed the tenant to file their written statement. Thereafter, the tenant filed their written statement and both parties led their respective evidence. Based thereon, the learned ARC passed an order of eviction dated 21.07.2025 in favour of the landlady and directed the tenant to vacate the subject premises.

6. Being aggrieved thereby, the tenant has preferred the present revision petition.

7. Today, at the very outset, Mr. Saurabh Seth, learned counsel for the tenant, out of the numerous grounds taken in the present petition, primarily restricts his arguments by drawing the attention of this Court to *Section 25B (6) and (7) of DRC Act* and submitting that the learned ARC has not followed the procedure therein since no issue(s) in terms of *Order XIV* of the Code of civil Procedure, 1908 (**CPC**) are/ were framed.

8. Further, Mr. Saurabh Seth then draws the attention of this Court to *paragraph 18(a)* of the Eviction Petition, wherein it has been asserted that the husband and sons of the landlady do not have sufficient place for carrying on the above business, except the stair portion of Property No. 4418, Ward No. VI, Main Nai Sarak, Delhi and that her sons also wished to join the business of their father due to his old age but on account of the paucity of accommodation, her sons are compelled to work as Packers with CBS Publishers, Darya Ganj, Delhi, to submit that the landlady had failed to disclose her genuine and *bona fide requirement* of the subject premises as also the dependency of the husband and sons on her.

9. Lastly, Mr. Saurabh Seth, whilst drawing the attention of this Court to order(s) dated 03.06.2024 and 07.04.2025 passed by the learned ARC,



whereby the contentions *qua* amendment and filing of documents raised by the tenant, were respectively rejected by the learned ARC, submits that the tenant was not given a chance to present his case.

10. Barring the aforesaid, the learned counsel for the tenant has not raised any other ground(s) mentioned in the present revision petition.

11. Issue notice.

12. Mr. Arun Birbal, learned counsel for the landlady accepts notice. He submits that there was no question of non-following of procedure since there is no provision in the DRC Act for framing of an issue, more so, since the tenant was all throughout appearing and was silent about the same till the filing of the present petition before this Court.

13. On the issue of *bona fide requirement*, Mr. Arun Birbal submits that it is an *admitted* fact that the husband of the landlady had expired during the pendency of the eviction proceedings and the requirement for her two sons became even more genuine and *bona fide* than it was before. He further submits that the learned ARC *qua* the aforesaid aspect of *bona fide requirement* has dealt with the same in detail for arriving at the findings in *paragraph nos.11 and 11.1 to 11.3* of the impugned judgment.

14. *Qua* the two order(s) dated 03.06.2024 and 07.04.2025, he submits that both the said orders passed by the learned ARC are well-reasoned and detailed, as also neither of them were challenged by the tenant.

15. This Court has heard learned counsel for the parties as also gone through the relevant documents on record.

16. Considering that the Eviction Petition under *Section 14(1)(e)* of the DRC Act is in the nature of a summary procedure, it is well-settled that there is no mandatory requirement of framing of any issue(s), unless and



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until any of the parties therein are able to show cause and/ or make out a case. *Admittedly*, in the present case the tenant never urged before the learned ARC for framing any issue(s). Even otherwise, it is too late in the day for the tenant to contend the same, particularly, at the stage of this revision petition when the tenant is precluded from raising fresh contentions/ averment which were never forming a part of the record and/ or taken before the learned ARC before.

17. Adverting to the *bona fide requirement* by the landlady, since it is trite law that the requirement of such a landlady was supreme, it was for her to adjudge the parameters as per her own needs and requirements. In the present case, whence the assertions made by the landlady in *paragraph 18(a)* of her Eviction Petition clearly establish that the landlady indeed had *bona fide requirement* for the subject premises, there was no plausible reason for the learned ARC to not consider the same in favour of landlady. Before this Court also, there is hardly any reason to controvert the findings rendered by the learned ARC *qua* the *bona fide* requirement as well.

18. Further, although it is the contention of the tenant that the landlady was unable to show the dependency of her late husband and sons upon herself, however, there is nothing which turns against her as the landlady was able to prove her case on merits, and that too after a full-fledged trial before the learned ARC. Even otherwise, there was nothing *qua* the dependency put forth during the cross-examination of the sole witness i.e., landlady. The averment *qua* dependency also loses its relevance, since it is an *admitted* position that the landlady lost her husband as he has passed away during the pendency of the Eviction Petition. Under such circumstances, it is safe to assume that the most sacrosanct duty of a



mother is to care for the overall welfare of a child, much less like the aged landlady. Therefore, the landlady indeed had a more dire and a *bona fide requirement* for the subject premises. In such a situation, the other factors considered by the learned ARC gains more weightage.

19. *Qua* the order(s) dated 03.06.2024 and 07.04.2025 passed by the learned ARC, *admittedly*, since there was no challenge to either of the said two orders, the same having attained finality, the tenant is estopped from raising any fresh assertions/ grounds *qua* them at this belated stage in the present revision petition before this Court.

20. Regarding *alternative accommodations* being available with the landlady, this Court is in agreement with the findings *qua* the same recorded in *paragraph nos.11, 11.1, 11.2 and 11.3* of the impugned judgment, which are reproduced as under:-

“11. Regarding the bonafide requirement of the demised premises by the petitioner, it has been argued by counsel for petitioner that as mentioned in Para 18(a) of the eviction petition, the demised premises was required by the petitioner for her husband and sons to carry out the business of M/s Pwan Book Service. That, as the husband of the petitioner expired on 16.08.2021, during pendency of eviction petition, the bonafide requirement has been limited for the sons of the petitioner. That the petitioner in her testimony as PW-2 has specifically deposed in her affidavit of evidence that her sons were working as packers with CBS Publishers, Daryaganj, New Delhi and after leaving the job, they were jobless as on the date of the said affidavit and were being involved in the business of medical books as having full knowledge with respect to the sale of said books. It is argued that the respondent has failed to conduct any cross examination of the petitioner/PW-2 on the said aspect and rather only suggestions have been given on behalf of the respondent in the entire cross examination.



11.1 On the other hand, it has been argued by Ld. Counsel for respondent that the bonafide need of the petitioner ceased to exist as husband of petitioner had already expired and the business being run by him was closed. It is further submitted that in the order on the application for leave to defence dated 09.03.2011, it was observed by the Ld. predecessor of the Court that there was one visiting card of Pawan Book Service with the name of the husband of the petitioner as proprietor and on the other side of the same business card, the name of Happy Book Service was printed having the same mobile no., on both the sides. On the basis of said submission, it is argued that the husband of the petitioner was running two businesses and therefore there was no need of the husband of the petitioner for tenanted premises for the purpose of running the business in the name of Mis Pawan Book Service. It is further argued that in the cross examination of petitioner/ PW2 she was confronted with one document i.e. **Ex. PW-2/R1**, which she had admitted and in the said document the name of all the firms being run by the husband of the petitioner and his family are mentioned, which show that the husband of the petitioner was running several business from several premises at the same time. Lastly, it is submitted that as the husband of the petitioner and after her death the petitioner and her sons are having several other properties, there was no bonafide need of the petitioner and again she was having other reasonable and suitable accommodation for the alleged requirement of her sons. In this regard, attention is also drawn to the document **Ex. PW-4/I** the copy of sale deed pertaining to property bearing no. 485, Bhola Nath Nagar, Shahdara, which was sold by the petitioner during the pendency of the present eviction petition.

11.2. In rebuttal, it is submitted on behalf of petitioner that the respondent/RW I in his cross examination has duly admitted that he had not filed any document to show if other properties as mentioned in WS were owned by the petitioner. Again he has further admitted that he could not



produce any document to establish if the husband of petitioner was having any concern with other businesses including Mis CBS Publisher and Distributors or M/s Subash Calendar Company. Accordingly, it is argued that all the avernments of the respondent with respect to the alleged availability of other suitable accommodation with the petitioner have remained bald without being supported by any piece of document.

11.3 Heard. Let me deal with the contentions of the counsel for respondent one by one. Regarding the first contention, it is observed that in her eviction petition as well as in her affidavit of evidence, the petitioner has specifically pleaded that she required the demise premises in the possession of the respondent for her husband as well as for her sons. Now even if the husband of the petitioner expired during the pendency of the eviction petition, the requirement of the sons of the petitioner still subsists and, in this regard, the respondent has failed to extract anything contrary in the cross examination of petitioner/PW2, which was conducted on 22.04.2025, after the death of the husband of the petitioner. Accordingly, said contention raised on behalf of respondent is not tenable. Regarding the second contention with respect to the observation in the eviction order pertaining to the visiting card, it is observed that the observations made in the order of leave to defend are certainly not relevant as on date as matter is being decided after appreciation of evidence led by both the parties. As mentioned above, in the cross examination of the petitioner/PW2 nothing has been extracted to the effect if the husband of the petitioner was running two businesses including M /s Pawan Book Service and Happy Book Service. Again, the said fact further became obsolete after the death of the husband of the petitioner and the requirement being restricted to the sons of the petitioner. Again, it is nowhere the case of the respondent that the sons of the petitioner had inherited the business of Happy Book Service or if they were running the same. On the contrary, in his cross examination R W 1, has duly admitted



that he could not produce any document to prove his version in the WS that the husband of the petitioner or the sons of the petitioner were running any other business including Happy Book Service, College Book Store and CBS Publisher and Distributors. Again, it can be further seen that from the record produced by RW3 and RW4, it is further clear that no other property except the subject premises are there in the name of the petitioner, her husband or her sons. Accordingly, the entire version of the respondent regarding availability of alternate accommodation with the respondent has also remained unproved. Thirdly, regarding the sale of the property at Bhola Nath Nagar, Shahdhar by the petitioner by way of sale deed Ex. PW-4/1, it is observed that admittedly said property was residential in nature and again as mentioned in the examination in chief of PW4, it was a joint family property in which the petitioner and her sons had 1/4th share along with other co-owners. Accordingly, the said property was certainly not a suitable accommodation to run the business, as required by the petitioner for running the book shop at Nai Sarak, which is certainly a well known market for business of books. Accordingly, all the contentions raised on behalf of respondent do not help the case of the respondent in any manner."

21. In any event, it was always open for the landlady to select the suitability of the subject premises even though she may have other accommodations available with her. Moreover, in view of what has been held in **Akhileshwar Kumar vs. Mustaqim**⁷, **Anil Bajaj vs. Vinod Ahuja**⁸, **Shiv Sarup Gupta vs. Dr. Mahesh Chand Gupta**⁹; **Viran Wali vs. Kuldeep Rai Kochhar**¹⁰ and **Kanhaiya Lal Arya vs. Md. Ehsan & Ors.**¹¹

⁷ (2003) 1 SCC 462

⁸ AIR 2014 SC 2294

⁹ (1999) 6 SCC 222

¹⁰ (2010) 174 DLT 328

¹¹ 2025 SCC OnLine SC 432



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the tenant cannot dictate how the landlord chooses to utilize the subject premises, as the same fall solely within the landlord's prerogative. The assessment of suitability must take into account various factor(s), including the size, location, accessibility, intended use, viability, and safety of the property, all of which must be collectively considered whilst determining the availability of suitable alternative accommodation. Hence, as the learned ARC *vide* the impugned judgment in great detail, there is no reason for interference by this Court *qua* the aforesaid issue.

22. In view of the foregoing analysis, the impugned judgment dated 21.07.2025 is affirmed and the present revision petition, alongwith the pending applications, is dismissed, leaving the parties to bear their respective costs.

23. Accordingly, the tenant is liable to hand over the vacant, peaceful and physical possession of the subject premises i.e., ***one shop with four doors situated at the ground floor of property bearing no. 4418, main Nai Sarak, Delhi-110 006*** to the landlady after the expiry of *six-month* period as per *Section 14(7)* of the DRC Act.

SAURABH BANERJEE, J

NOVEMBER 18, 2025/Ab