



2025:DHC:11066



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: December 06, 2025

+ RC.REV. 337/2018, CM APPL. 29225/2018, CM APPL. 12164/2019

RADHEY SHAYAM CHOUHANPetitioner

Through: Mr. Samrat Nigam, Sr. Adv.
alongwith Mr. Abhishek Verma,
Ms. Arpita Rawat and Ms. Shabana,
Adv. (M- 9811744539)

Versus

RADHA SHARMA & ORSRespondents

Through: Mr. Arvind Bhatta, Ms. Ritika
Choubey and Ms. Swastika Singh,
Adv. for R-1 and 2.
Ms. Apurva Tyagi, Ms. Divyanshu
Rathi and Mr. Rajesh Bansal, Adv.
for R-3 and 4.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (ORAL)

1. As per respondents/ landlords (*landlords*) in their Eviction Petition under *Section 14(1)(e)* of the Delhi Rent Control Act, 1958 (*DRC Act*) whereby the tenant was directed to vacate, the entire property where the subject premises, comprising of one large room with a tin shed in front on the ground floor of the building (commonly known as “*Rath Khana*”) bearing Municipal No.447, Cycle Market, Esplanade Road, Chandni Chowk, Delhi-110 006 (*subject premises*), is situated was their ancestral property, and of the 27 surviving members/ co-owners thereof, the



landlords were duly authorised by the other co-owners to file the same.

2. More so, by means of a judgment and decree dated 20.12.1982 passed by a learned Single Judge of this Court in a Suit for Partition being C.S.(O.S.) No.224/1974 (*earlier suit*), the respective shares of the aforesaid co-owners were demarcated. Pursuant thereto, the same attained finality, in view of the subsequent order dated 11.08.1986 passed by the Hon'ble Division Bench of this Court in RFA(OS) No.29/1985 (*earlier appeal*). There was a *bona fide requirement* of the subject premises by the landlord no.1 for setting up a business of selling vegetables as the same is the most ideal location and there was no *alternate accommodation* available with the landlords for the said purpose.

3. Upon service, the petitioner/ tenant (*tenant*) filed an application seeking leave to defend under *Section(s) 25(4) and (5)* of the DRC Act, *inter alia*, primarily alleging that all the co-owners were only holding the subject premises in the capacity of the *Mahants/ Pujaris* and the landlords were not the owners since they had no title *qua* the property where the subject premises was situated.

4. Hearing both parties, the learned Rent Controller (Central District), Tis Hazari Courts, Delhi (*learned ARC*) passed order dated 06.03.2018 (*impugned order*), since the tenant failed to raise any triable issue, the application seeking leave to defend of the tenant was dismissed and the tenant was directed to vacate the subject premises.

5. Hence the present revision petition filed by the petitioner/ tenant seeking setting aside of the impugned order dated 06.03.2018 of the learned ARC.

6. Though the tenant has raised various grounds in the present revision



petition, however, learned senior counsel for the tenant has primarily argued that the subject premises were not forming a part of either the earlier suit or the earlier appeal *inter se* the landlords and their family members along with other co-tenants, who were proforma parties therein. Thence, the learned senior counsel drawn attention of this Court to a receipt dated 10.03.1987 issued by the Municipal Corporation of Delhi (**MCD**), which pertains to a portion of a ratable value of the same subject premises (pdf page 215), wherein it is categorically specified as under:-

<i>“2. In What respect the Ratable value of any other matter is disputed</i>	<i>447, Esplanade Road is also Temple’s property and my God’s Rath (Chariot) Standing there. It is Garrage of Rath.”</i>
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7. Then, relying upon the order dated 07.04.2021 passed by the learned Additional Rent Controller-2 (Central), Tis Hazari Courts, Delhi in ARC No: 80089/16, the learned senior counsel submits that the same was a case pertaining to Shop no.491, Ground Floor, situated at Esplanade Road, Chandni Chowk, Delhi-110 006, wherein the landlord was unable to establish the *landlord-tenant relationship*, since the ownership was not recognised/ proved therein.

8. On the other hand, learned counsel for the landlords submits that the parties to the earlier suit comprised of two branches of the same family of the landlords, i.e. the plaintiff nos.1 to 7 representing one branch, the defendant nos.1 to 13 therein representing the other branch, and the defendant nos.14 to 20 therein were impleaded as they were the tenants occupying various portions of the two separate properties, one of which included where the subject premises is situated. The learned counsel submits that though, *admittedly*, the father of the tenant was impleaded as



defendant no.18 therein, he neither filed any written statement nor any document(s) at any stage of the proceedings.

9. Lastly, the learned counsel submits that, in any event, the outcome of the earlier suit and/ or the earlier appeal will not come to the aid of the tenant since the partition was only in the form of re-adjustment *qua* the two properties involved therein, which included the property wherein the subject premises was situated.

10. In rejoinder thereto, learned senior counsel for the tenant submits that since the father of the tenant was, *admittedly*, a proforma party, there was no occasion for filing any pleadings/ document(s) therein.

11. This Court has heard learned (senior) counsel for the parties as also gone through the documents and pleadings on record.

12. *Prima facie*, it is relevant to note that this Court is sitting in revisional jurisdiction and as held *in Sarla Ahuja vs. United India Insurance Co. Ltd.; (1998) 8 SCC 119* and *Abid-Ul-Islam vs. Inder Sain Dua; (2022) 6 SCC 30*, the scope of the interference is very limited and the basis of interference sought by a party, has to be within the realm of the pleadings set up by him before the learned ARC.

13. Since learned senior counsel for the tenant was unable to show if the father of the tenant had pleaded about the subject premises not forming a part of the earlier suit or the earlier appeal, the contention *qua* that before this Court, being belated, is negated. The tenant is barred from asserting/ arguing anything contrary to pleadings for improving his case, and that too, in revisional jurisdiction.

14. Further, as evident from the impugned order, since the tenant himself relied upon both the earlier suit and the earlier appeal before the



learned ARC, the tenant is barred from contending anything contrary thereto. As such, this Court agrees with the findings rendered by the learned ARC *qua* the same, which are reproduced as under:-

“26. Ld. Counsel for the respondent has also relied upon the judgment in suit no. 226/53 to argue that the premises in suit vests in the diety of lord Sh. Jagan Nath Ji Maharaj and the predecessor-in-interest of the petitioners as well as the petitioners have only inherited the Mahantship and they cannot claim-themselves to be the owners. However, the said decree referred to in suit no. 226/543 ceased to have any consequence the moment the subsequent suit no. 224/74 was finally decreed. The subsequent decree dated 11.08.1986 in RFA (OS) No. 29/1985 automatically superceded the earlier decree in suit no. 226/53. Once the partition suit has been decided by the Hon'ble High Court, wherein the property in question has fallen to the share of the petitioners, being co-owners, the said order cannot be challenged by the respondent in these collateral eviction proceedings.”

15. Furthermore, since it is not in dispute that though late father of the tenant was very much impleaded as defendant no.18 therein, and he was a party before both the said earlier suit and the earlier appeal, he never filed any pleading(s)/ document(s) nor raised any objection(s) of any kind at any point of time. There being no challenge thereto by the late father of the tenant, the judgment passed by the Hon'ble Division Bench of this Court is final and binding upon his son, i.e. the tenant herein. As such, this makes it too late in the day for the tenant to try to build up a new case, and somehow wriggle out of the outcome of the earlier suit and the earlier appeal. More so, since the eviction proceedings have been initiated by the landlords under *Section 14(1)(e)* of the DRC Act.

16. Considering that the late father of the tenant was always a party,



though a mere *pro forma* party thereto and was jolly well aware of the outcome, non-challenge thereto by him now cannot give his son, the tenant herein, a right to try and build up a new case.

17. Even otherwise, as held in ***Shanti Sharma & Ors. vs. Ved Prabha & Ors; (1987) 4 SCC 193***, since in an Eviction Petition, the landlord is to show and establish of having a better title than the tenant, the reliance by the tenant upon the receipt dated 10.03.1987 issued by the MCD cannot be of any assistance to the tenant.

18. Similarly, the order dated 07.04.2021 passed by the learned ARC in ARC No. 80089/16 titled as “***Sh. Atal Behari Sharma & Ors. vs. M/s Rattan Studio Through its partner/ proprietor & Ors.***” is also not binding, and/ or of any persuasive value since, *firstly*, it was, *admittedly*, *qua* a different set of parties excluding the tenant herein and was also involving a different property and, *secondly*, the same was passed after the leave to defend application of the tenant therein was allowed and a full-fledged trial was held. In any event, learned counsel for the landlords submits that the said order is pending challenge before this Court in CM(M) 698/2022 titled as “***Shri Atal Behari Sharma vs. Rattan Studio & Ors.***”.

19. In view of the aforesaid analysis and discussions, especially, taking into account the scope of interference, this Court finds no merit in the present revision petition.

20. As such, the present revision petition along with the pending applications is dismissed and the impugned order dated 06.03.2018 passed by the learned ARC is upheld.

21. Resultantly, considering that the *six months* period granted by the



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learned ARC under the provisions of *Section 14(7)* of the DRC Act, has already been lapsed, the tenant is liable to vacant and handover peaceful and physical possession of the subject premises to the landlords in compliance of the impugned order dated 06.03.2018.

SAURABH BANERJEE, J.

DECEMBER 6, 2025/bh/aks