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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RC.REV. 457/2016**

RAZIA BEGUM & ORS.Petitioners
Through: Mr.Zeeshan Ahmed, Advocate
versus
MOHD NAEEM & ANR.Respondents
Through: Mr.Rajat Aneja and Mr.Jatin Tyagi,
Advocates for respondent No.1 alongwith
respondent No.1

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
19.03.2025

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1. By way of present revision petition filed under Section 25-B (8) of the Delhi Rent Control Act 1958 (hereinafter, referred to as 'DRC Act'), the petitioners seek to assail judgment dated 14.03.2016 passed by the Court of Additional Rent Controller (Central), Delhi in eviction petition No. 792/14/04, whereby the eviction petition filed by the petitioners concerning property No. 2239, Naya Mohalla, Gall Qasim Jan, Delhi was dismissed.
2. Learned counsel for respondent No.1 submits that the matter was substantially heard on the last date of hearing and that he has no other contention to address. He submits that the Predecessor Bench had noted the conclusion, however, time was given to take instructions from respondent No.1 in case he needs any further time to vacate the premises beyond the statutory period under Section 14 (1) (e) DRC Act.
3. On 11.03.2025, the Predecessor Bench of this Court passed a detailed order. The relevant extract of the order dated 11.03.2025 is reproduced below:-

"8. The record reflects that on the aspect of ownership and landlord tenant relationship, the learned Trial Court has found that in view of the settled law that the challenge which was



raised by respondent/tenant was with respect to the fact that the property belonged to the Wakf Board. However, the finding as given in the Impugned Order shows that no evidence was led by the Respondent in this behalf.

9. Relying on the settled law passed by a Co-ordinate Bench of this Court in Rajender Kumar & Ors. v. Leela Wati & Ors.; 155 (2008) DELHI LAW TIMES 383, the learned Trial Court has held that what is required to be proved is not absolute ownership of the property but the landlord has to only show that he is more than just a tenant.

10. On the aspect of bona fide need, the need as set out in the Eviction Petition is for the residence of the Petitioners and the family members of all 14 Petitioners. The Eviction Petition gives details of this requirement in this behalf. It is apposite to extract para 18(iii) of the Eviction Petition which is reproduced below:

“18(iii) The petitioners bonafide require the suit premises for their residence. Late Shri Abdul Rauf was married, to petitioner no.1 and from this marriage six sons namely Late Shri Abdul Qayyum and petitioners no. 9 to 12 and respondent No.2 and two daughters namely petitioner No.13 and 14 were born. Shri Abdul Rauf expired on 08.08.1987.”

11. The Eviction Petition in great detail sets out that there are several members of the family and each of them would require a separate room for their respectively families. The record also reflects that requirement of the family members is also set out in the cross-examination in detail.

12. As set out above, learned Trial Court has given a finding in the Impugned Order that the pleadings were silent on the aspect of availability of sufficient alternate accommodation as stated above. The pleadings clearly set out that there was paucity of accommodation and availability was requisite. To this extend the Impugned Order suffers from an infirmity. This itself stands recorded in Paragraph 2 of the Impugned Order.

13. The examination by a Court in a Revision Petition is limited and circumspect. The Supreme Court in Abid-ul-Islam v. Inder Sain Dual , has held that the jurisdiction of this Court is only revisionary in nature and limited in its scope. The Supreme Court while interpreting the intendment of the legislature in removing two stages of Appeal that were earlier provided in the



said Act has held that this is a conscious omission. The High Court is not expected to substitute and supplant its view with that of the learned Trial Court, its only role is to satisfy itself on the process adopted. Thus, the scope of revisionary jurisdiction of this Court has been limited to examine if there is an error apparent on the face of the record or absence of any adjudication by the learned Trial Court, and it is only then should the High Court interfere. The legislature has consciously removed the two stages Appeal which existed priorly. The Supreme Court has also cautioned from converting the power of superintendence into that of a regular first Appeal under revisionary jurisdiction. The relevant extract of the *Abid-ul-Islam* case is as follows:

“23. The proviso to Section 25-B(8) **gives the High Court exclusive power of revision against** an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision making process, inclusive of procedural compliance. **Thus, the High Court is not expected to substitute and supplant its views with that of the trial court by exercising the appellate jurisdiction. Its role is to satisfy itself on the process adopted. The scope of interference by the High Court is very restrictive and except in cases where there is an error apparent on the face of the record,** which would only mean that in the absence of any adjudication per se, the High Court should not venture to disturb such a decision. There is no need for holding a roving inquiry in such matters which would otherwise amount to converting the power of superintendence into that of a regular first appeal, an act, totally forbidden by the legislature.

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25. The aforesaid decision has been recently considered and approved by this Court in *Mohd. Inam v. Sanjay Kumar Singhal* [*Mohd. Inam v. Sanjay Kumar Singhal*, (2020) 7 SCC 327 : (2020) 4 SCC (Civ) 107] : (SCC pp. 340-41, paras 22-23)

“22. This Court in *Sarla Ahuja v. United India Insurance Co. Ltd.* [*Sarla Ahuja v. United India Insurance Co. Ltd.*, (1998) 8 SCC 119] had an occasion to consider the scope of proviso to Section 25-B(8) of the Delhi Rent Control Act, 1958. This Court found, that though the word “revision” was not employed in the said proviso, from the language used therein, the legislative intent was clear that the power



conferred was revisional power. This Court observed thus :
(SCC p. 124, para 11)

'11. The learned Single Judge of the High Court in the present case has reassessed and reappraised the evidence afresh to reach a different finding as though it was exercising appellate jurisdiction. No doubt even while exercising revisional jurisdiction, a reappraisal of evidence can be made, but that should be for the limited purpose to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable.'

It could thus be seen, that this Court has held, that the High Court while exercising the revisional powers under the Delhi Rent Control Act, 1958 though could not reassess and reappraise the evidence, as if it was exercising appellate jurisdiction, however, it was empowered to reappraise the evidence for the limited purpose so as to ascertain whether the conclusion arrived at by the fact-finding court is wholly unreasonable."

[Emphasis supplied]

14. The Impugned Order also thus suffers from absence of adjudication given the pleadings and the fact that the complete trial was held in the matter.

15. Prima facie, this Court finds grounds to allow the Revision Petition.

16. At this stage, learned counsel for Respondent No.1 requests for some time to take instructions.

17. At his request, list on 19.03.2025 in the supplementary list.

18. The parties shall remain physically present on the next date of hearing."

4. Indisputably, the predecessor bench passed the aforesaid order after hearing in detail both the parties. It is a common stand of both the counsels that the matter was adjourned only at the request of learned counsel for respondent No.1 to seek instructions regarding the time required for vacating the premises.



Learned counsel for respondent No.1 submits that the respondent No.1 is unwilling to vacate or pay user and occupation charges for any period beyond the statutory period of six months. Having gone through the pleadings, I am satisfied that the petitioner's bonafide need to the subject property stands proved.

5. In view of respondent No.1's unwillingness to extend the time for vacating the premises and to pay user and occupation charges beyond the statutory limit of six months, as well as in terms of the order passed by this Court on 11.03.2025, the impugned order dismissing the eviction petition is set aside and the eviction petition stands allowed. The Petitioner is entitled to recover possession of the tenanted premises subject to time limit as provided under Section 14(7) of the Act.

6. The petition is disposed of.

MANOJ KUMAR OHRI, J

MARCH 19, 2025

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