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

+ **RC.REV. 399/2017, CM APPL. 30991/2017**

KAMAL

.....Petitioner

Through: Mr. Aditya Aggarwal and Mr.
Ankit Mutreja, Advs.

versus

PARGAS KAUR

.....Respondent

Through: Mr. Sunil J. Mathews, Ms.
Samanwaya Rautray, Ms. Jyoti
Chib, Ms. Ashtami Khatri and Ms.
Achint Priya, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

01.12.2025

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1. By virtue of the present petition, the petitioner/ tenant seeks setting aside of the order dated 24.07.2017 passed by learned ARC, Tis Hazari Courts (*learned ARC*) in E. No. 32/17 (NEW NO. 239/17), whereby the learned ARC dismissed the tenant's application seeking leave to defend filed under *Section 25B(4)* and *Section 25B(5)* of the Delhi Rent Control Act, 1958 (*DRC Act*).
2. It is the case of the tenant that although his counsel had the application for the leave to defend duly attested on 14.06.2017, however, owing to the counsel's *bona fide* belief that the Courts would resume after summer vacations from 03.07.2017, the application seeking leave to defend came to be filed only on 03.07.2017.



3. Learned counsel for the tenant further submits that since the eviction petition has been filed under *Section 14D* of the DRC Act, which enable widow to seek eviction of the premises for residence, however, since, the subject premises is a shop, it is incapable of being put to residential use.

4. *Per contra*, learned counsel for the respondent/ landlord submits that the petitioner received the summons on 03.06.2017 and appeared before the learned ARC on 08.06.2017 and the petitioner ought to have filed the leave to defend application by 17.06.2017, however, the petitioner filed the leave to defend application only on 03.07.2017 i.e., much beyond the statutory period of 15 days. Hence, the learned ARC has rightly dismissed the tenant's leave to defend application. To buttress his contentions, learned counsel for the respondent seeks to place reliance upon *Prithipal Singh vs. Satpal Sing (Dead) through LRs: (2010) 2 SCC 15* and *Netra Prakash Sharma vv. Rakesh Dhawan: (2014) SCC OnLine Del 3625*.

5. Controverting the aforesaid, learned counsel for the tenant, relying upon the judgment of Hon'ble Division Bench of this Court in *Directorate of Education & Ors. vs. Mohd. Shamim & Ors.: 2019 SCC OnLine Del 11490* submits that this Court can condone the delay, provided the tenant is able to demonstrate that he was prevented from filing the leave to defend application for the reason beyond his control and that he has made out a substantial case for considering the leave to defend, both of which stand satisfied in the present case.

6. A perusal of *Section 25B* of the DRC Act makes it abundantly clear that the tenant shall file an application seeking leave to defend, setting out



all the grounds on which he seeks to contest the eviction petition, within the statutory period of *fifteen days* from the date of service of notice upon him. Failure to do so precludes the tenant from contesting the eviction petition and the statements made by the landlord in his eviction petition are deemed to be admitted. In effect, the period of *fifteen days* is sacrosanct and cannot be extended.

7. This position has been clearly settled by the Hon'ble Supreme Court in ***Prithipal Singh vs. Satpal Sing (Dead) through LR.s.: (2010) 2 SCC 15***, which says as under:-

“15. Next comes the very important provision in Section 25-B of the Rent Act i.e. sub-section (4) of the same. It clearly provides that a tenant on whom the summons is duly served in the form specified in the Third Schedule shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller, as hereinafter provided, and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

16. From a careful perusal of sub-section (4) of Section 25-B of the Rent Act, it would be clearly evident that the tenant shall not be permitted to contest the prayer for eviction unless he files an affidavit before the Controller stating the ground on which he seeks to contest the application for eviction and obtains leave from the Controller. This section also clearly indicates that in default of his appearance in compliance with the summons or his obtaining such leave, the statement made by the landlord in the eviction proceedings shall be deemed to be admitted by the tenant and the landlord shall be entitled to an order for eviction on



the ground mentioned in the eviction petition. At this stage, we may also note that in sub-section (4) of Section 25-B of the Rent Act read with the Third Schedule, it has been made clear by the legislature that if the summons of the proceeding is received by the tenant, he has to appear and ask for leave to contest the eviction proceedings within 15 days from the date of service of notice upon the tenant and if he fails to do so, automatically, an order of eviction in favour of the landlord on the ground of bona fide requirement shall be made.”

8. Even otherwise, the tenant cannot be allowed to claim any benefit from his own inaction and failure to be vigilant in complying with the statutory requirement. The circumstances alleged by the tenant do not constitute reasons beyond his control, and therefore, the delay cannot be condoned.

9. It is also undeniable fact that the summons of the eviction petition was duly served upon the tenant on 03.06.2017, and the tenant has failed to file his leave to defend application within the statutory period of *fifteen days*, despite the fact that the learned Link Rent Controller was on duty even during the summer vacations and that the tenant could have filed the application on the very first day of the reopening of the courts after the summer vacations, i.e., 01.07.2017, the tenant's leave to defend application is clearly barred by limitation. The tenant cannot be allowed to claim any benefit from his own inaction, wrong and failure, merely because he was not vigilant in complying with the statutory requirement. The circumstances alleged by the tenant do not constitute reasons beyond his control, as required by the Hon'ble Division Bench.

10. Moreover, the tenant has not been able to make out any case



whereby he can take recourse to and/ or take benefit of the judgment of Hon'ble Division Bench in “***Director Directorate of Education & Anr. vs. Mohd. Shamim & Ors.***” [RC. Revision No.279/2014]. In any event, the Hon'ble Court therein was dealing with eviction proceedings involving *Section 14(1)(e)* of the DRC Act, and not *Section 14D* of the DRC Act, as in the present case.

11. In view of the aforesaid, there is no reason for this Court to interfere with the impugned order dated 24.07.2017, passed by the learned ARC. As such, the present petition is dismissed.

12. In view thereof, and considering that the statutory period of six months granted by the learned Trial Court, in terms of *Section 14(7)* of the DRC Act has lapsed since long, the tenant is directed to handover vacant peaceful and physical possession of the subject premises to the landlord in compliance with the order dated 24.07.2017.

SAURABH BANERJEE, J.

DECEMBER 01, 2025/bh