



2026:DHC:24



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: December 11, 2025

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Pronounced on: January 05, 2026

+ RC.REV. 213/2023, CM APPL. 38871/2023, CM APPL. 22940/2024

MOHD BURHAN & ORS.

....Petitioners

Through: Mr. Manu Nayar, Mr. Sahil Moga,
Mr. Nitin Kumar, Ms. Kanishka
Sharma, Mr. Lalit Kumar and Ms.
Esha Goyal, Advs.

Versus

**SHRI TRILOKI NATH (SINCE DECEASED)
THROUGH LRS & ORS.**

....Respondents

Through: Mr. Asutosh Lohia, Mr. Shraddha
Bhargava, Ms. Rishika Jain, Mr.
Mohd. Atif Abdullah Khan and Ms.
Princy Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. The respondent/ landlord¹ filed an Eviction Petition being E.P. No.5926/ 2012 under *Section 14(1)(e)* read with *Section 25(B)* of the Delhi Rent Control Act, 1958², against the petitioners/ tenants³ before the learned ACJ/ CCJ/ ARC (South) Saket Courts, New Delhi⁴, seeking their eviction from property bearing no. E-45/1, measuring 12'7' 112" X 9' ft. situated on the ground floor of E-45, Main Market, Hauz Khas, New

¹ Hereinafter referred to as "*landlord*"

² Hereinafter referred to as "*DRC Act*"

³ Hereinafter referred to as "*tenants*"

⁴ Hereinafter referred to as "*learned ARC*"



Delhi-110 016⁵. Since the application seeking leave to defend of the tenants stood allowed, after a full-fledged trial, *vide* earlier order dated 22.10.2021⁶, the Eviction Petition of the landlord was allowed and an order of eviction passed against the tenants *qua* the subject premises.

2. Thereafter, the tenants filed a review petition which has been dismissed by the learned Review Court *vide* an order dated 19.07.2023⁷.

3. *Succinctly put*, the landlord filed an Eviction Petition before the learned ARC as he was the owner-landlord of the subject premises by virtue of a registered Will dated 17.11.1995 executed by his late mother Smt. Surajwati, the erstwhile owner of the entire property wherein the subject premises is situated, by virtue of registered Sale Deed dated 24.09.1954. Since, late Sh. Mohd. Zikria, father of the tenants herein was recognised as a tenant on or around 03.04.2001 and was paying monthly rent of Rs.300/- pursuant to a compromise arrived *inter se* the landlord and one Sh. Yahyah Khan, and that after the demise of late Sh. Mohd. Zikria, his legal heirs being the present tenants, assumed the status/ position of the tenants. Hence, there was a *landlord tenant relationship* between the parties.

4. The landlord also professed a *bona fide requirement* of the subject premises to start a general merchant shop for earning a living for himself and his wife as there were no suitable *alternative accommodations* for the said purpose.

5. Upon being served, the tenants filed their application seeking leave

⁵ Hereinafter referred to as “*subject premises*”

⁶ Hereinafter referred to as “*first impugned order*”

⁷ Hereinafter referred to as “*second impugned order*”



to defend, which was first declined by the learned ARC on 18.02.2013, and the challenge thereto by the tenants was also dismissed *vide* order dated 01.10.2013 passed by this Court in RCR no.240/2013. Eventually, the same came to be set aside by the Hon'ble Supreme Court *vide* order dated 18.04.2017 passed in SLP(C) no.29167/2014 whereby the tenants were granted leave to defend. Pursuant to the said order dated 18.04.2017 of the Hon'ble Supreme Court, the tenants filed their written statement.

6. Further, although the tenants initially admitted the *landlord tenant relationship* between the parties, however, since the tenants raised an issue of ownership, the same was first negated by the learned ARC *vide* order dated 09.02.2018 and then the same was upheld by this Court *vide* order dated 27.04.2020. It was also the case of the tenants that there was no *bona fide requirement* of the landlord owing to his old age, his son residing elsewhere in Uttar Pradesh and his daughter being happily married and also residing separately and all of them being financially stable. Barring this, as per tenants, the landlord was having various *alternative accommodation* available with him. It was also the case of the tenants that there are some settlement talks for enhancing the rent were also going on *inter se* the parties.

7. After proceeding with a full-fledged trial, the learned ARC passed the first impugned order in favour of the landlord finding that there existed a *landlord tenant relationship* between the parties and the landlord was having a *bona fide requirement* for the subject premises as he had no other *alternative accommodation* available with him. As such, being all the three essential limbs of an Eviction Petition under *Section 14(1)(e)* of the DRC Act satisfied, the learned ARC passed the first impugned order allowing the



eviction petition of the landlord.

8. Thereafter, the tenants filed a revision petition before this Court on the ground that since the landlord had expired on 11.11.2021, as also his wife had also pre-deceased him, and as there was no averment in the Eviction Petition of his son, daughter and/ or any other family member requiring the subject premises for commercial use nor was there even a suggestion that they were dependent upon the landlord financially, the *bona fide requirement* for which the subject premises was sought, had been extinguished in the wake of the subsequent events of their demise.

9. The said revision petition of the tenants was allowed by this Court *vide* order dated 23.12.2022 and the proceedings were remanded to the learned ACJ/ CCJ/ ARC (South), Saket Courts, New Delhi⁸ for taking the said subsequent events into consideration.

10. As such, the tenants proceeded with the same line of arguments as above, i.e. *qua* the after effect of the demise of the landlord.

11. *In response*, it was the case of the legal heirs of landlord that the said review petition was not maintainable since the *bona fide requirement* ought to be considered on the date of filing of the Eviction Petition, as also that the power of a review cannot be extended to the plea raised by the tenants therein, if done so, the same would result in excess of jurisdiction by the learned Review Court.

12. Based on the above, the learned Review Court *vide* order dated 19.07.2023 held that an Appellate Court may consider subsequent events for the purpose of moulding relief, however, as the proceedings before it were confined to review jurisdiction, the aforesaid grounds raised by the

⁸ Hereinafter referred to as “*Review Court*”



tenants were not permissible, and that the existence of a review ground is to be assessed as on the date of the eviction order, and any subsequent events, including the death of the erstwhile landlord, were beyond the scope of review and cannot be regarded as an error apparent on the face of the record.

13. Being aggrieved thereby, the tenants have filed the present revision petition seeking setting aside of the aforesaid two order(s) dated 22.10.2021 and 19.07.2023.

14. During pendency of the present proceedings herein, *vide* order dated 23.01.2024, this Court granted stay of the execution arising out of the first impugned order dated 22.10.2021.

15. Mr. Manu Nayar, learned counsel for the tenants whilst relying upon *Jungli vs. Syed Waris Ali*⁹, *Seshambal (dead) Through LRs vs. M/s Chelur Corporation Chelur Building & Ors.*¹⁰, *Hasmat Rai & Anr. vs. Raghunath Prasad*¹¹, *Ramesh Kumar vs. Kesho Ram*¹², *United Spirits Ltd. vs. Sam Fragrances Pvt. Ltd.*¹³, *Jatinder Khanduja vs. Jagdish Khanuja*¹⁴, *Gopal Krishna Sawhney vs. Vinod Kumar*¹⁵ and *Seema Thakur vs. UOI & Ors.*¹⁶, submitted that the learned Review Court erred by not considering the subsequent events pertaining to the demise of the erstwhile landlord as also his late wife, that extinguished the *bona fide requirement*, for which the subject premises was sought. The same was a germane

⁹ 1975 11 DLT 132

¹⁰ (2010) 3 SCC 470

¹¹ (1981) 3 SCC 103

¹² AIR 1992 SC 700

¹³ 2021 Supreme (Del) 160

¹⁴ 2018 169 DRJ 395

¹⁵ 2018 Supreme (Del) 472

¹⁶ 2015 223 DLT 132



consideration owing to the fact that the Eviction Petition was *admittedly* bereft of any averments *qua* the subject premises being sought by the son and/ or daughter in law, who in fact were never dependent on the erstwhile landlord and even till date they are finically independent.

16. Mr. Manu Nayar, learned counsel based on the aforesaid referring to the judgments entitled *Premchand vs. Subhash Chand Saini*¹⁷, *Inderchand Jain (D) Through LRs v. Motilal (D) Through LRs*.¹⁸ and *Director Directorate of Education vs. Mohmd. Shamim*¹⁹ further submitted that the relief was liable to be moulded as per the changed circumstances/ subsequent events, i.e., the demise of the persons for whom the subject premises was sought, and the same was within the domain of the learned Review Court to adjudicate. Additionally, since *Section 25B(9)* was exercisable in accordance with *Section 114* read with *Order XLVII* of the Code of Civil Procedure, 1908 (*CPC*), the impugned order passed by the learned Review Court was vitiated by non-consideration of *Seshambal (supra)* which clearly states that if the landlord passes away and ‘*need/ requirement*’ of dependents was not pleaded in the Eviction Petition, then the legal heirs cannot be permitted to continue the eviction proceedings on the *bona fide requirement* of the erstwhile landlord.

17. Lastly, Mr. Manu Nayar, learned counsel submitted that there were multiple *alternative accommodations* available with the erstwhile landlord for satisfying the *bona fide requirement* as also the fact that both legal heirs of the landlord are financially affluent and are doing well in life, as such, there is no *bona fide requirement* for the subject premises.

¹⁷ 2012 Supreme (Del) 2925

¹⁸ (2009) 14 SCC 663

¹⁹ 2019 Supreme (Del) 2518



18. Since no arguments were addressed by Mr. Manu Nayar, learned counsel on the aspect of existence of a *landlord tenant relationship* between the parties, the findings *qua* the same being established as rendered by the learned ARC are taken to be final and binding and this Court need not to delve into the same.

19. *Per contra*, Mr. Asutosh Lohia, learned counsel for the landlord placing reliance upon the judgement entitled ***Shakuntala Bai & Ors. vs. Narayan Das & Ors.***²⁰ wherein the Hon'ble Supreme Court has categorically held that the *bona fide requirement* of the landlord is to be assessed as on the date of institution of the proceedings and once a decree of eviction is passed, the subsequent death of the landlord during the pendency of an appeal preferred by a tenant does not affect the decree, as the legal heirs are fully entitled to step in and defend the estate.

20. This Court has heard the learned counsel for the parties as also gone through the documents and pleadings on record and the case law cited by them at the Bar.

21. Regarding the first impugned order, as per the factual matrix involved, since there was/ is no dispute that the landlord was a senior citizen aged *seventy five years* at the time of filing of the Eviction Petition by him; and further his elder son, being a bureaucrat, was (then) living in Uttar Pradesh and his daughter was happily married, he needed the subject premises for financial stability, the same, in view of the findings rendered by the learned ARC, were sufficient for the landlord to have established a *bona fide requirement* for the subject premises. Also, though it was the case of the tenants that the landlord was running a business of private buses

²⁰ 2004 (5) SCC 772



and that he was a contractor, however, there was sufficient evidence that the said business of buses had already stopped and there was no evidence as to when he was a contractor. It would also be wrong to conclude that being an old senior citizen, the landlord could not start and run general merchant shop, particularly, since, as held in ***Ragunath G. Panhale vs. Chaganlal Sundarji & Ors.***,²¹ income, job, financial capacity and/ or capability of a landlord was his choice and how he runs it and also since there was no dispute by the tenants that he did not have the means to employ staff/ personnel for it. On the contrary, it was the case of the tenants that his children were financially well-off. Based on the facts herein, the talks of settlement, if any, *inter se* the parties can be of no assistance to the tenants.

22. Similarly, since the tenants had failed to provide any cogent evidence, and the two shops were not exclusively belonging to the landlord but to his family members of his deceased brother, as also since the subject premises was situated just below his own residence and since he was a senior citizen aged *seventy five years*, there was nothing to deny the relief of eviction to the landlord on the ground that the tenants were able to show that he had any other *alternative accommodation* available with him. In any event, as held in ***Akhileshwar Kumar vs. Mustaqim***²² and ***Kanahaiya Lal Arya vs. Md. Eshan and Ors.***²³, it is not for the tenant to dictate terms to the landlord and choose what he deciphers to be a substitute to the subject premises, more so, that the same was just below the residence of the landlord who was an old senior citizen.

²¹ (1999) 8 SCC 1

²² (2003) 1 SCC 462

²³ 2025 SCC Online SC 432



23. Perusal of the first impugned order reveals that the learned ARC has also rendered similar, well-reasoned and detailed, findings regarding *bona fide requirement* of the subject premises by the landlord and there being no other suitable *alternative accommodation* available with him. As such, in view of the aforesaid, this Court is agreeable with the aforesaid findings rendered by the learned ARC *qua bona fide requirement* of the subject premises by the landlord. Thus, the same requires no interference.

24. Lastly, in view of the order dated 27.04.2020 passed by this Court, the *landlord tenant relationship* between the parties duly stands established.

25. Resultantly, there is no interference required in the first impugned order dated 22.10.2021 passed by the learned ARC.

26. Based on the second impugned order, this Court is to adjudge, *firstly*, the scope of a revision under *Section 25B(9)* of the DRC Act read with *Section 114* and *Order XLVII* of the CPC and *secondly*, the extinguishment of *bona fide requirement* of a landlord after his demise, particularly, if the need was *per se* only that of the landlord. Both the aforesaid issues being intertwined are being adverted together herein below.

27. The power of review in *Order XLVII rule 1* of the CPC²⁴ is

²⁴Application for review of judgment-(1) Any person considering himself aggrieved—
(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
(b) by a decree or order from which no appeal is allowed, or
(c) by a decision on a reference from a Court of Small Causes,
and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.



circumscribed of an extremely limited nature as specifically mandated therein as “*discovery of new* and important matter or *evidence* which, *despite due diligence*, was *not within the knowledge of the applicant or could not be produced* at the time of passing of the decree or order”; “existence of a *mistake or an error apparent on the face of the record*” and lastly, any “*other sufficient reason* justifying exercise of the power of review”. More so, since after pronouncing the order/ final order/ judgement, the Court passing the same becomes *functus officio*, and can exercise jurisdiction under *Order XLVII rule 1* of the CPC only whence there is a glaring omission, patent mistake or alike grave errors has crept in a judgment and/ or order. The core purpose of review being to prevent miscarriage of justice as also multiplicity of litigations and since review is certainly not akin to an appeal, it cannot partake the character of an appeal thereof, review is an exception to the general rule.

28. A review is also certainly not permissible under the guise of rehearing/ reagitating of what has already been adverted to during the pendency of the proceedings, much less, and more so, of such new/ subsequent facts regarding the demise of the landlord herein which nowhere existed prior to passing of the order/ final order/ judgement sought to be reviewed. The tenants cannot be allowed to invoke a new ground by filing a review petition based on the subsequent demise of the landlord. The said demise of the landlord is certainly not such a “*discovery*” calling for review of the first impugned order. A review can also not be used a step to stop execution. Being mindful thereof, the legislature also, in its wisdom, has not included any such new/ subsequent facts under review jurisdiction, if that be the case, there will be no end to a litigation.



29. The yardstick for maintaining a review petition has been culled out in the judgment passed by the Hon'ble Supreme Court in the case of *State of West Bengal & Ors. vs. Kamal Sengupta & Anr.*²⁵ and the same has recently been followed in the judgment passed by the Hon'ble Apex Court entitled *Government of NCT of Delhi through its Secretary, Land and Building Department & Anr. vs. K.L. Rath Steel Limited & Ors.*,²⁶ the relevant excerpts whereof are reproduced herein as under:-

“35. The principles which can be culled out from the above noted judgments are:-

a. The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

b. The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

c. The expression "any other sufficient reason appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

d. An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

e. An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

f. A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent

²⁵ (2008) 8 SCC 612

²⁶ (2024) 7 SCC 315



decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

g. While considering an application for review the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/ decision as vitiated by an error apparent.

h. Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/ tribunal earlier.

[Emphasis Supplied]

30. In the present case, since the landlord was very much alive at the time of, and also till the passing of the first impugned order, whereby it was established that the order of eviction was passed in his favour as his *requirement* was found to be genuine, truthful, and benign when he filed the Eviction Petition, and that too after withstanding the prolonged trial and test of time, there could be no extinguishment of his legal and valid right for seeking execution *qua* the subject premises. On the date of filing and passing of the first impugned order by the learned ARC, as the landlord was alive, the cause of action for initiating the Eviction Petition by the landlord was validly surviving, existing and subsisting. For ease of reference, reliance is placed upon ***Shakuntala Bai & Ors. (supra)*** wherein the Hon'ble Supreme Court has clearly held as under:-

“11. ... Therefore, the legal position is well settled that the



bona fide need of the landlord has to be examined as on the date of institution of proceedings and if a decree for eviction is passed, the death of the landlord during the pendency of the appeal preferred by the tenant will make no difference as his heirs are fully entitled to defend the estate.

xxx xxx xxx

15. As the preamble shows, the Madhya Pradesh Accommodation Control Act, 1961 has been enacted for expeditious trial of eviction cases on the ground of bona fide requirement of landlords and generally to regulate and control eviction of tenants. If the subsequent event like the death of the landlord is to be taken note of at every stage till the decree attains finality, there will be no end to litigation. By the time a second appeal gets decided by the High Court, generally a long period elapses and on such a principle if during this period the landlord who instituted the proceedings dies, the suit will have to be dismissed without going into merits. The same thing may happen in a fresh suit filed by the heirs and it may become an unending process. Taking into consideration the subsequent events may, at times, lead to rendering the whole proceedings taken infructuous and colossal waste of public time. There is no warrant for interpreting a rent control legislation in such a manner, the basic object of which is to save harassment of tenants from unscrupulous landlords. The object is not to deprive the owners of their properties for all times to come.”

[Emphasis Supplied]

31. Same is the view expressed by the Hon’ble Supreme Court in ***Kamleshwar Prasad vs. Pradumanju Agarwal***²⁷.

32. A perusal of ***Premchand (supra)***, ***Indershand Jain (supra)***, ***Director, Directorate of Education (supra)***, ***Jungli (supra)*** and ***Seshambal***

²⁷ (1997) 4 SCC 413



(*dead*) through *LRs* (*supra*) reveal that none of them are/ can be applicable to the facts and circumstances involved herein as they were all cases wherein the landlord expired during the pendency of the litigation, i.e. before passing of the final judgment or there were concealment. Those were cases wherein the right of the landlord(s) therein stood extinguished by default. Here is a case where, *admittedly*, the landlord was very much alive when the first impugned order was passed by the learned ARC.

33. Similarly, perusal of *Hasmat Rai* (*supra*) and *Ramesh Kumar* (*supra*) also reveal that they cannot come to the aid of the tenants as they all are not pertaining to the DRC Act, where there is no scope of an appeal against an order of eviction passed by the learned ARC while disposing of an Eviction Petition under *Section 14(1)(e)* of the DRC Act and the only remedy available is one under the revisional jurisdiction. This Court cannot be expected to import provisions of another/ parallel statute, and that too of an appeal into the DRC Act, when it is in itself silent about the same, just to somehow expand the already available scope there. Doing so, would be against the very purport, intent and principles of the DRC Act. This Court cannot ignore that *Section 14(1)(e)* and the intent of introducing *Section 25B* in the DRC Act thereafter was/ is as a *summary procedure* as per the prevailing circumstances within Delhi.

34. Lastly, in the context of the DRC Act, where there is no provision of an appeal and the only remedy available is that of a review, as held by the Hon'ble Supreme Court in *Joginder Pal vs. Naval Kishore Behal*²⁸ and followed by a Co-ordinate Bench of this Court in *Labhu Lal vs. Smt.*

²⁸(2002) 5 SCC 397



*Sandhya Gupta*²⁹, in a *pari-materia* provision, the *bona fide need* cannot be interpreted narrowly or restrictively as being confined only to the personal use of the landlord. The expression “*own use*” in DRC Act is of wide import and encompasses the legitimate needs of the members of the landlord’s family as also it is a moral obligation of a parent to settle their children and help them to attain economic independence, and such a need by a landlord is undoubtedly *bona fide*. Merely because the landlord in a proceedings under the DRC Act has expired does not mean that his need for the subject premises has extinguished, particularly, whence there is no dispute that both the son and daughter are his legal heirs and both of them are alive.

35. Although, principles of natural justice, equity, conscience and balance of convenience are not factors on merits, however, before parting, this Court wishes to express that under the given facts and circumstances involved, agreeing with the interpretation sought to be given by the learned counsel for the tenants would amount to relegating the parties to another long drawn litigation only because the landlord has expired after having an order of eviction from a Court of law in his favour, and that too after a full-fledged trial.

36. Therefore, there is no scope of interference by this Court in the second impugned order dated 19.07.2023 passed by the learned Review Court as well. Consequently, based on the foregoing, there is no interference warranted by this Court in either of the two impugned order(s).

37. As such, this Court, while exercising its revisional jurisdiction, although cannot assume the role of an Appellate Court so as to supplant its

²⁹173 (2010) DLT 318



own views *in lieu* of the what has been expressed by the learned ARC, however, as held by the Hon'ble Supreme Court in *Sarla Ahuja vs. United India Insurance Co. Ltd.*³⁰ and *Abid-Ul-Islam vs. Inder Sain Dua*³¹, it is trite that in the exercise of supervisory jurisdiction, if a patent and manifest error(s) are discernible on the face of the record, it becomes obligatory for this Court to exercise its revisional powers to correct the miscarriage of justice. Since there is no infirmity in the impugned order dated 22.10.2021 passed by the learned ARC as also in the impugned order dated 19.07.2023 passed by the learned Review Court, the said orders are upheld.

38. Accordingly, the order dated 23.01.2024 granting stay of the execution proceedings, is vacated.

39. As such, the tenants are liable to hand over vacant and peaceful physical possession of the property bearing no.E-45/1, admeasuring 12'7" 112" X 9' ft. situated on the ground floor of E-45, Main Market, Hauz Khas, New Delhi-110 016 to the landlord/ his legal heir(s) as the time period in terms of the *Section 14(7)* of the DRC Act has already lapsed.

40. Accordingly, the present revision petition along with the pending applications is dismissed, leaving the parties to bear their own costs.

SAURABH BANERJEE, J.

JANUARY 05, 2026/So/aks

³⁰ (1998) 8 SCC 119

³¹ (2022) 6 SCC 30