



2026:DHC:4270



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

% *Reserved on: 19th February, 2026*

Pronounced on: 14th May, 2026

+ **RSA 171/2024**

SHRI RAJENDER KUMAR SHARMA

Son of Late Ram Asrey Sharma

R/o House No. 2671, Gali No.4,

Bhola Nath Nagar Shahdara, Delhi.

....Appellant

Through: Ms. Pushti Gupta, Advocate

versus

SHRI HARI KRISHAN AGGARWAL

Son of Late Rattan,

Proprietor Shivam Agency

Shop forming part of property

No. 2671 Gali No.4

Situated on the GF, Mahavir Block

Pandav Road, Bhola Nath Nagar,

Shahdara, Delhi.

.....Respondents

Through: Mr. Sameer Sidhar, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) has been filed against the judgment dated 28.03.2024 whereby the learned ADJ has upheld the judgment dated 06.06.2023 of learned Civil Judge who had dismissed the Suit for Possession, Damages, Mesne Profits and Permanent Injunction on the ground as being not maintainable, because of the bar under Section 50 of the Delhi Rent Control Act (*hereinafter referred to as the "DRC Act"*).



2. The plaintiff/Appellant Sh. Rajender Kumar Sharma had filed a Suit bearing CS No.1068/2022 for *Possession, Damages, Mesne Profits and Permanent Injunction*.

3. ***Facts in brief, as stated in the plaint,*** are that Plaintiff/Appellant is the owner/landlord of property bearing No. 2617, Gali No. 4, Mahavir Block, Bhola Nath Nagar, Shahdara, Delhi (*hereinafter referred to as the "Suit Property"*) by virtue of Relinquishment Deed dated 25.06.2011 executed by other family members, in his favour in respect of the Suit Property. Even otherwise, the Suit for possession has been filed by the Plaintiff against the Defendant in the Court of learned Civil Judge, Karkardooma, wherein the Defendant had admitted that the Plaintiff was the owner/landlord of the Suit Property.

4. The Defendant further admitted himself to be a tenant under the Plaintiff, on the ground floor of the Suit Property. He even deposited rent under Section 27 DRC Act in the Court of learned Rent Controller wherein again, he admitted the Plaintiff to be landlord/owner of the Suit Property. *The relationship of landlord-tenant is therefore, admitted between the parties.*

5. The Plaintiff further asserted that Defendant had been inducted as a tenant by the Plaintiff in respect of one shop on the ground floor of the Suit Property admeasuring 16 ft x 10 ft approximately at a monthly rent of Rs.1300/- p.m., which the Defendant had been depositing in the bank account of the Plaintiff. The Plaintiff asserted that property in question exists in the Colony known as Mahavir Block, Pandav Road, Bhola Nath Nagar, Shahdara, Delhi, Gali No. 4, on the land of village Chandrawali, Shahdara, Delhi, which is also known as Mahavir Block, Pandav Gali,



Shahdara, Delhi. This village has not been urbanized under Section 507 of the Municipal Corporation Act and therefore, the provisions of DRC Act are not applicable to the tenanted premises. *Furthermore, the premises not being urbanized, were not included in Schedule 2(1) of DRC Act. Therefore, DRC Act is not applicable to the Suit Shop.*

6. The tenancy of the Defendant was terminated under 106 Transfer of Property Act by the Plaintiff through Legal Notice dated 25.07.2022, wherein the Defendant was asked to hand over vacant and peaceful possession of the Suit Shop to the Plaintiff. Despite Notice, he failed to vacate the premises and thus, the Suit for Possession and Permanent Injunction was filed by the Plaintiff.

7. The Suit was contested by the *Defendant/Respondent who had taken a preliminary objection* that the Suit being barred under Section 50 DRC Act, as the admitted rate of rent was Rs.1300/- per month.

8. It was stated that earlier, *Plaintiff had filed a Suit C.S. No. 389/2012, (later renumbered as C.S. 7148/2016) titled Rajender Kumar Sharma v. Hari Krishan Agarwal* before the Court of Senior Civil Judge, District East, with almost the same averments, in which also a plea of bar of Section 50 DRC Act, was taken in the Written Statement. When the question of maintainability of a Civil Suit under general law was raised by the Court, Plaintiff, after several opportunities, ultimately withdrew the Suit *vide* Order dated 23.07.2016.

9. Thereafter, Plaintiff filed a *Petition under Section 14(1)(e) DRC Act bearing No. E-72/2016 (renumbered as RC/ARC 1232/16)* dated 26.09.2016, wherein the Leave to Defend was granted *vide* Order dated 27.09.2019. After the Leave to Defend was granted, Plaintiff realized that he would not



be able to get any relief, failed to pursue the Petition diligently, which got dismissed in default on 19.04.2022. The Restoration Application was also dismissed on 11.07.2022, in the light of the conduct of the Plaintiff.

10. It was submitted that it is apparent on the face of record that the Plaintiff is engaged in forum hunting and is not sure under which law he intends to pursue his remedies. The Plaintiff cannot be allowed to approbate and reprobate, in the same breath.

11. It is claimed that the Plaintiff wanted to usurp Rs.3.50 lakhs, which the Defendant had deposited with Sh. Ashok Kumar Sharma, as refundable security at the time of inception of tenancy. In fact, Defendant was inducted as a tenant in the year 1998 at the rent of Rs.800/- p.m. by Ashok Sharma, brother of the Plaintiff. The Plaintiff for the first time, demanded the rent and thereafter, filed a Civil Suit, which he did withdraw on 23.07.2016.

12. On merits, it was reiterated that the Suit was barred by Section 50 DRC Act.

13. The **learned Civil Judge** in his judgment dated 06.06.2023, decided the preliminary issue in regard to the maintainability of the Suit in view of the bar of Section 50 DRC Act and *held the suit as not maintainable*.

14. The reference was made to the judgment of Mitter Sen Jain v. Shakuntala Devi (2009) 9 SCC 720, wherein it was held that unless a Notification had been issued under sub-section (2) of Section 1 of Delhi Rent Control Act, extending the Act to the area, the provision of Delhi Rent Control Act would not be applicable.

15. Reference was also made to Rajkumar v. Meer Singh in RSA 267/2015 and Subhash Chander v. Fateh Singh in RSA No. 290/2015, wherein it was similarly held.



16. The learned Civil Judge referred to Notification dated 08.12.1954, bearing number F.(19)/50-LSG issued by the Government of Delhi in exercise of its powers under Section 5(3) Punjab Municipal Act, 1911, whereby the Municipal limits of Delhi, Shahdara area, as defined in the Schedule, was included within the limits of Municipal Committee, Delhi Shahdara.

17. The **learned Civil Judge** thus, held that *vide* this Notification dated 08.12.1954, the Suit Property came within the jurisdiction to which Delhi Rent Control Act was applicable. Thus, in terms of Section 1(2) DRC Act, the Rent Control Act was applicable and therefore, the Suit was barred under Section 50 DRC Act. *The Civil Suit was accordingly dismissed.*

18. The **Appeal bearing RCA DJ No. 73/2023** was filed before the Court of learned Additional District Judge, who upheld the Order of the learned Civil Judge *vide judgment dated 28.03.2024.*

19. Aggrieved by the said judgment, the **Second Regular Appeal** has been preferred.

20. *The grounds of challenge are* that the judgment of the learned Civil Judge dated 06.06.2023 as well as the learned ADJ dated 28.03.2024, are based on conjecture and surmises and are against the provisions of law and the observations of the Supreme Court in the judgment of Mitter Sen Jain (Supra), Rajkumar (Supra), Subhash Chander (Supra).

21. It is claimed that from the perusal of Annexure 9, i.e. copy of Schedule 1 DRC Act, it is crystal clear that village Chandrawali, Shahdara, Delhi or Bhol Nath Nagar, Mahavir Block, Shahdara, Delhi, have not been included in the Schedule/Section 2(1) DRC Act and therefore, this Act is not applicable.



22. Furthermore, it has been held by the Apex Court as well as by this Court, that even if any rural area is urbanized under Section 507 DMC Act, the provisions of DRC Act shall not be applicable to such urbanized area, until and unless such urbanized area is not included in Schedule 2(1) DRC Act.

23. Even if it is presumed that village Chandrawali, Shahdara, Delhi and unauthorized, regularized colony of Bhola Nath Nagar, Shahdara, Delhi, have been urbanized *vide* Notification dated 08.12.1954 of the LG in exercise of power conferred under Section 5(3) Punjab Municipal Act, but even then, they are not included in the Schedule 2(1) DRC Act and therefore, the bar of Section 50 DRC Act, is not applicable.

24. Mere urbanization would not make the DRC Act applicable, in the absence of a specific Notification making the DRC Act applicable. It is, therefore, submitted that the impugned judgments of the learned Civil Judge and the learned ADJ is liable to be set aside.

25. The **Respondent in its Reply/Counter Affidavit**, has submitted that this Second Appeal is not maintainable either in law or in fact. Both the Courts of learned Civil Judge and learned ADJ have passed the impugned order after due appreciation of pleadings, evidence and law and are well reasoned and in accordance with law. It calls for no interference under Section 100 CPC.

26. It is claimed that it is a matter of record that Mahavir Block, Pandav Road is a part of Bhola Nath Nagar, Shahdara, which forms part of the Revenue Estate of Shahdara. It is denied that the Village Chandrawali is not notified for the purpose of application of Delhi Rent Control Act, as Section 2(1) DRC Act extends the DRC Act to the areas within the limit of MCD, as



specified in the First Schedule.

27. It is, therefore submitted that there is no merit in the present Second Appeal, which is liable to be dismissed/

Submissions heard and record perused.

28. It is not disputed that *vide* Notification dated 08.12.1954, the Suit Property which falls in the Shahdara Zone, had been notified and urbanized being a part of MCD.

29. The basic controversy is that even though the Suit Premises were notified to be within the jurisdiction of MCD as per the Notification dated 08.12.1954, there was no second Notification in terms of Proviso to Section 1(2) DRC Act, to make the Delhi Rent Control Act applicable..

30. In the present case, the Suit Property became part of the MCD *vide* Notification of 1954. The Delhi Rent Act came into effect from 09.02.1959. Schedule 1(2) Delhi Rent Control Act 58 provided as under:

“The urban areas within the limits of the Municipal Corporation of Delhi to which the Act extends. The Areas which immediately before the 7th April, 1958, were included in-

- 1. the Municipality of New Delhi excluding the area specified in the First Schedule to the Delhi Municipal Corporation Act, 1958 (66 of 1957);*
- 2. the Municipal Committee, Delhi;*
- 3 . the Notified Area Committee, Civil Station, Delhi.*
- 4. the Municipal Committee, Delhi-Shahdara;*
- 5. the Notified Area Committee, Red Fort;*
- 6. the Municipal Committee, West Delhi ;*



7. *the South Delhi Municipal Committee;*

8. *the Notified Area Committee, Mehrauli."*

(Emphasis supplied)

31. From this Notification, it is evident that as on the date of Notification of Delhi Rent Control Act, all the areas which fall in the Municipal Committee, Delhi-Shahdara were covered under Delhi Rent Control Act. Since the urbanization of the area where the Suit Property is located happened in the year 1954, i.e., prior to Notification of the Delhi Rent Control Act, Schedule 1 included all the areas of Municipal Committee, Delhi-Shahdara, since the time of Notification of the Delhi rent Control Act and, therefore, there was no subsequent separate Notification required for extending the Delhi Rent Control Act.

32. The proviso to Section 1(2) DRC Act is applicable where the Central Government may, by Notification of the Official Gazette, extends its Act or any provision, to any other urban area included within the limits of MCD or excluded any such area. The ***Proviso*** would be effective for the areas which are notified either to include or to exclude the special areas, after the date of Notification of the Act, i.e., 09.02.1959.

33. This interpretation finds corroboration from the judgment of Mitter Sen Jain (Supra) wherein it has been held that *if any new area is included under the urban area of MCD*, a further Notification is required to be issued under Sub-Section 2 to Section 1 of Delhi Rent Control Act. Unless such Notification is taken out, the provisions of Delhi Rent Control Act would not be applicable. Similar are the observations made in the case of Rajkumar (Supra) and Subhash Chander (Supra).

34. From these judgments, it is evident that a subsequent Notification



under Section 1 Sub-Section 2 is required only if an area is included or excluded after the Delhi Rent Control Act, was notified.

35. It has been clearly provided in Schedule 1 to Section 1, that the Municipal Committee, Shahdara was included. Therefore, the contention that a second Notification was required, is clearly not tenable.

36. It is also significant to note that the Plaintiff/Appellant had earlier filed a Civil Suit No. 389/2012 in the Court of Senior Civil Judge, District East, Delhi, wherein the Defendant had taken the plea of bar of Section 50 in the Written Statement. The Suit was pending at the stage of maintainability of the Civil Suit, when the Plaintiff ultimately withdrew on 23.07.2016.

37. Not only this, the Plaintiff had also filed an Eviction Petition bearing No. E-72/2016 dated 26.09.2016 under Section 14(1)(e) DRC Act wherein after the Leave to Defend was granted on 27.09.2019, the Suit was not pursued and it got dismissed in default on 19.04.2022 and the Restoration Application also got dismissed on 11.07.2022.

38. It is quite evident from the conduct of the Plaintiff himself that he was aware of the Suit Property is covered under the Delhi Rent Control Act for which reason, he had filed the Eviction Petition under the provisions of Delhi Rent Control Act.

39. The present Suit has been filed on 05.09.2022, i.e., much after the dismissal of the Eviction Petition under Delhi Rent Control Act. There are no circumstances, which have changed and there is nothing to show that now the Delhi Rent Control Act has ceased to be applicable to the Suit Property. It has been rightly contended by the Defendant/Respondent that such approbation and reprobation by the Plaintiff, establishes the bar of Section 50 DRC Act to the present Suit Premises.



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40. The learned Civil Judge as well as the learned ADJ have rightly held that no second Notification under Section 1(2) DRC Act was required, as at the time of enactment of the Act itself, the area where Suit Property is located was already notified and Delhi Rent Control Act extended to it.

41. There is **no merit in the present Second Appeal**, which is hereby dismissed. Pending Applications, if any, also are disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 14, 2026

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