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

% ***Judgment reserved on: 18.08.2026***
Judgment pronounced on: 27.10.2026

CNR No. DLHC013227572022

\+ RC.REV. 36/2022, CM APPL. 60370/2025 (Seeking to place on record affidavits sworn by R-2), CM APPL. 49624/2026 (To place on record Written Synopsis), CM APPL. 53346/2026 (U/O XXXII Rule 15 CPC) & CM APPL. 53347/2026 (Dir.)

RAM CHARAN AGGARWAL (DECEASED) THROUGH LEGAL HEIR .....Petitioner

Through: Mr. Alok Kumar, Sr. Advocate, with Ms. Manisha Agrawal Narain, Mr. Amit Kumar Singh, Mr. Varun Maheshwari, Mr. Manan Soni, Ms. Kavita Bardia and Ms. Suhani Jain, Advocates

versus

PREM LATA & ANR. .....Respondents

Through: Mr. Pawan S. Bindra, Senior Advocate with Mr. Sunil Dutt Dixit and Mr. Shashwat Dixit, Advs.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present **Revision Petition**[1] has been filed under the proviso to Section 25-B(8) of the **Delhi Rent Control Act, 1958**[2], assailing

[1] Petition
[2] DRC Act

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the **Order dated 16.09.2021**[3] passed by the learned **SCJ-cum-Rent Controller (Central), Tis Hazari Courts, Delhi**[4] in **Eviction Petition No. RC ARC 79653/2016**[5], whereby the Application seeking leave to defend, filed by the Petitioner herein, came to be dismissed and an Order of eviction was consequently passed in favour of the Respondents in respect of the **ground floor of the property bearing No. 1375, Katra Lehswan, Chandni Chowk, Delhi-110006**[6].

2. The dispute between the parties, however, has its genesis in a series of proceedings concerning the rights in and to the subject premises, which has been the subject matter of litigation between the members of the family for several decades. It would, therefore, be apposite to notice the relevant factual background leading to the filing of the Eviction Petition and, eventually, the present Petition.

BRIEF FACTS:

3. The subject premises formed part of the properties in which the partnership firm, M/s Lalji Mal Tika Ram, had tenancy rights. The tenancy in respect of the subject premises originally commenced pursuant to an agreement dated 06.04.1935, under which the property, then belonging to M/s Puran Chand Rattan Lal, was taken on rent by late Shri Ganeshi Lal, who was at the relevant time the sole proprietor of M/s Lalji Mal Tika Ram.

4. Late Shri Ganeshi Lal subsequently died on 09.10.1981. Disputes thereafter arose *inter se* his two sons, *namely*, Shri Ram Charan Aggarwal and Shri Ram Gopal Aggarwal, concerning the partnership business, its assets and the various properties associated

[3] Impugned Order
[4] learned RC
[5] Eviction Petition
[6] subject premises

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therewith, including the tenancy rights in the subject premises. The ensuing disputes resulted in several proceedings between the two brothers before different Courts. During the pendency of the said proceedings, the parties arrived at a settlement.

5. By **Order dated 23.10.2007**[7], the broad terms of the settlement were recorded, pursuant to which the immovable properties were to be divided between the two brothers through a bidding process in respect of three lots, *namely*, Delhi, Mumbai and Hathras. The bids were thereafter submitted, and by Order dated 14.02.2008, Shri Ram Charan Aggarwal emerged as the highest bidder in respect of the Delhi lot, amongst the other lots.

6. The distinction between the ownership of the subject premises and the tenancy rights therein subsequently assumed significance. The subject premises had, in fact, been purchased by Smt. Prem Lata and Shri Ram Kishan, wife and son of Shri Ram Gopal Aggarwal, by a registered **Sale Deed dated 25.05.1998**[8] from Shree Mahalakshmi Investment and Property Company Limited. At the relevant time, the ground floor continued to be in the occupation of M/s Lalji Mal Tika Ram as a tenant.

7. After the settlement, disputes arose as to the precise nature of the rights which had devolved upon Shri Ram Charan Aggarwal pursuant to the bidding process. While Shri Ram Charan sought to assert ownership rights over the subject premises, the Respondents maintained that what had been transferred to him under the compromise was only the tenancy rights therein. This question came

[7] Compromise Order
[8] Sale Deed

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to be considered in **Execution Petition No. 227/2010**[9] and thereafter in **Appeal in EFA (OS) Nos. 23-24/2010**[10].

8. The Division Bench of this Court, hearing the Appeal, *vide* its Judgment dated 03.08.2012, examined the compromise orders, the statements of the parties and the decree and held, insofar as the subject premises were concerned, that the partnership firm had only tenancy rights therein and that the compromise had conferred upon Shri Ram Charan Aggarwal the tenancy rights and not the ownership rights in the property. The said decision thereafter attained finality upon dismissal of the proceedings carried further by Shri Ram Charan Aggarwal, including the SLP and Review Petition.

9. In the *interregnum*, the Respondents, asserting themselves to be the owners and landlords of the subject premises, instituted the Eviction Petition under Section 14(1)(e) of the DRC Act. The Petitioner, in response thereto, filed an Application seeking leave to defend, raising, *inter alia*, objections concerning the ownership and land lordship of the Respondents and the *bona fide* requirement pleaded by them.

10. In support of their *bona fide* requirement, the Respondents pleaded that, consequent upon the earlier settlement and the handing over of possession of the Delhi properties, they had been left without any reasonably suitable commercial premises for carrying on their business activities. It was stated that the subject premises were required for their commercial activities and that the other premises relied upon by the Petitioner either did not belong to the Respondents

[9] Execution Petition
[10] Appeal

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or were residential or tenanted accommodations and were, in any event, not reasonably suitable for the requirement pleaded.

11. Before proceeding further, it is relevant to note that the present Eviction Petition had earlier been the subject matter of proceedings before this Court in *RC.REV. 209/2016, Prem Lata & Anr. v. Shri Ram Charan Aggarwal*. The Order dated 28.03.2016, passed by the learned ARC allowing the application seeking leave to defend, was assailed before this Court and was set aside *vide* Order dated 08.03.2018, with the matter being remanded for fresh adjudication of the application for leave to defend under Section 25-B of the DRC Act.

12. Upon such remand, the learned RC, after considering the Application seeking leave to defend, the reply thereto and the additional material placed on record, dismissed the said Application *vide* the Impugned Order and consequently passed an order of eviction in favour of the Respondents.

13. It is in the aforesaid factual backdrop that the present Revision Petition falls for consideration before this Court.

SUBMISSIONS ON BEHALF OF THE PARTIES:

14. Learned senior counsel appearing on behalf of the Petitioner would submit that the Impugned Order has been passed mechanically, without examining the circumstances in which the Eviction Petition came to be instituted and, in particular, the absence of any change in circumstances between the settlement arrived at between the parties and the institution of the Eviction Petition.

15. He would submit that the Respondents and the Petitioner belong to two branches of the same family and that the disputes between the

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parties had culminated in the settlement recorded by this Court in the proceedings between the family members. Pursuant to the said settlement, the parties had participated in the bidding process, and the Petitioner had emerged successful in respect of the Delhi properties, including the tenancy rights in the subject premises, for which substantial consideration had been paid to the Respondents' branch of the family.

16. He would submit that the Respondents had, at the time of the settlement, expressly agreed to the arrangement and had undertaken that no further claim would be made in respect of the properties forming the subject matter of the settlement.

17. Learned senior counsel would submit that the Respondents thereafter obtained the benefit of the consideration flowing from the settlement and, upon possession of the subject premises being handed over to the Petitioner on 28.08.2008, instituted the Eviction Petition on 05.12.2008, i.e. within approximately 100 days of such handing over of possession.

18. He would submit that the ground pleaded in the Eviction Petition was that, pursuant to the settlement, the Respondents had been required to give up possession of their business premises and consequently required the subject premises for continuing their business.

19. He would contend that there was, however, no change whatsoever in the circumstances between the settlement, the handing over of possession and the institution of the Eviction Petition which could explain the sudden emergence of such a *bona fide* requirement.

20. He would submit that the learned RC has failed to examine this circumstance in its proper perspective and has proceeded to accept the

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plea of *bona fide* requirement without considering whether the alleged paucity of accommodation was, in fact, self-induced by the Respondents themselves pursuant to the settlement voluntarily entered into between the parties.

21. He would submit that having consciously participated in the bidding process, accepted the bid in favour of the Petitioner and received the consideration payable pursuant thereto, the Respondents could not thereafter seek to recover the very premises in respect of which the Petitioner had acquired rights under the settlement, by asserting a requirement which was a direct consequence of the arrangement voluntarily accepted by them.

22. Learned senior counsel would further submit that the terms of the settlement and the statements made by the parties before this Court gave rise to a contractual arrangement governing the rights in the subject premises and that the Respondents were, therefore, not entitled to disregard the same and invoke the provisions of the DRC Act without the said arrangement being examined in evidence.

23. He would submit that the questions of waiver, estoppel and the effect of the representations and undertakings given by the Respondents at the time of settlement necessarily raised triable issues and could not have been summarily rejected at the stage of consideration of the Application for leave to defend.

24. He would further submit that the learned RC has failed to appreciate the Judgment dated 03.08.2012 passed by the Division Bench of this Court in its proper perspective. According to learned senior counsel, the said Judgment was concerned with the nature and extent of the rights which had devolved upon the Petitioner pursuant to the settlement and did not have the effect of extinguishing or

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rendering nugatory the contractual and equitable consequences flowing from the settlement itself.

25. He would submit that the learned RC has misread the said Judgment by treating it as conclusively answering the objections raised by the Petitioner in the present proceedings, whereas the effect of the settlement, the consideration paid thereunder and the subsequent conduct of the Respondents remained matters requiring adjudication.

26. Learned senior counsel would submit that the Petitioner had specifically raised these circumstances in the Application seeking leave to defend and had thereby disclosed facts which, if established, would materially affect the Respondents' claim of *bona fide* requirement.

27. He would submit that the learned RC, however, failed to appreciate the cumulative effect of the settlement, the substantial consideration paid by the Petitioner, the handing over of possession on 28.08.2008 and the institution of the Eviction Petition on 05.12.2008, and mechanically proceeded on the basis of the Respondents' pleaded requirement.

28. He would, therefore, submit that the aforesaid circumstances, at the very least, disclose triable issues with regard to the *bona fides* of the requirement pleaded by the Respondents, the effect of the settlement and the alleged waiver and estoppel arising therefrom, and that the Petitioner ought to have been granted leave to defend.

29. He would accordingly pray that the Impugned Order be set aside and the Petitioner be granted leave to defend the Eviction Petition.

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30. ***Per contra***, learned senior counsel appearing on behalf of the Respondents would submit that the Impugned Order calls for no interference and that the learned RC has considered the objections raised by the Petitioner in their proper perspective.

31. He would submit that the issue regarding the nature of the rights acquired by the Petitioner pursuant to the compromise is no longer open for consideration, having been conclusively dealt with by the Division Bench of this Court in its Judgment dated 03.08.2012 in the Appeal, wherein it was held that the Petitioner had acquired only the tenancy rights in respect of the subject premises and not the ownership thereof.

32. He would submit that the said Judgment was carried further and the challenge thereto ultimately failed, and consequently the status of the Respondents as owners/landlords of the subject premises cannot be reopened in the present proceedings.

33. Learned senior counsel would further submit that the allegation that the Eviction Petition was actuated by *mala fides* is without basis. He would submit that the Respondents had been carrying on their business from the subject premises and, pursuant to the compromise and the handing over of the premises to the Petitioner, were left without any reasonably suitable commercial accommodation for carrying on their business.

34. He would contend that the requirement pleaded in the Eviction Petition was, therefore, a genuine consequence of the Respondents' existing business requirement and not a device to resile from the compromise.

35. Insofar as the allegation of self-induced paucity is concerned, learned senior counsel would submit that the compromise merely

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determined the respective rights of the two branches of the family in the properties and did not create any permanent bar against the Respondents asserting a *bona fide* requirement of premises which continued to belong to them.

36. He would submit that the Petitioner cannot derive any right beyond the tenancy rights which were expressly recognised in his favour and which had already been upheld by the Division Bench of this Court.

37. Learned senior counsel would further submit that the Respondents had specifically disclosed the accommodation which was available to them and had explained why the same could not constitute reasonably suitable alternative commercial accommodation.

38. He would submit that the property at 1303, Katra Dhulia, Chandni Chowk, was itself a small tenanted premises measuring approximately 12' × 7', whereas the other properties referred to by the Petitioner were residential premises and were neither available nor suitable for the commercial requirement pleaded in the Eviction Petition. The Respondents had also disclosed the subsequent residential accommodation occupied by them, despite the same not having been specifically referred to by the Petitioner.

39. He would submit that the allegation that the Respondents had deliberately concealed properties is, therefore, incorrect and that each of the properties relied upon by the Petitioner had been dealt with in the pleadings and material placed before the learned RC. The mere existence of residential properties or a small tenanted commercial premises cannot displace the Respondents' right to seek possession of the subject premises for their *bona fide* commercial requirement.

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40. Learned senior counsel would accordingly submit that the learned RC has correctly appreciated the effect of the compromise, the subsequent Judgments of this Court, the Respondents' ownership and the requirement pleaded by them, and has rightly concluded that no triable issue was disclosed by the Petitioner.

41. He would, therefore, pray that the present Petition be dismissed.

ANALYSIS:

42. This Court has heard learned senior counsel appearing on behalf of the parties and, with their able assistance, perused the material on record, including the Impugned Order.

43. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioner, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the *proviso* to Section 25-B(8) of the DRC Act.

44. The contours of the aforesaid jurisdiction are well settled. The Hon'ble Supreme Court, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***[11], ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***[12], and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***[13], has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25-B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

45. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in ***Pankaj***

[11] (1998) 8 SCC 119
[12] (2014) 9 SCC 78
[13] (2022) 6 SCC 30

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Pahwa v. Prem Wati & Ors.[14], and ***Sanjeev Hiranandani v. Sunny Grover***[15].

46. In ***Abid-Ul-Islam*** (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25-B of the DRC Act, observed that the omission of an appellate remedy against an Order passed by the learned Rent Controller is conscious and deliberate. The jurisdiction conferred upon the High Court is, therefore, one of superintendence over the decision-making process, including the legality and propriety thereof, and does not permit the High Court to substitute its own view for that of the learned Rent Controller merely because another view on the material available on record may be possible. The relevant observations of the Hon'ble Supreme Court read as under:

> "**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."

47. In ***Pankaj Pahwa*** (supra), a Coordinate Bench of this Court, considering the principles enunciated in ***Abid-Ul-Islam*** (supra), reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25-B(8) of the DRC Act is limited in scope and that

[14] 2024:DHC:9322
[15] 2025:DHC:11285

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this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

48. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25-B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Judgment suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

49. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged by the learned counsel on behalf of the Petitioner against the Impugned Order are required to be examined.

50. The first aspect which requires consideration is the nature of the enquiry which the learned RC was required to undertake while considering the Application seeking leave to defend. Section 25-B of the DRC Act prescribes a special and summary procedure for eviction petitions instituted on the ground specified in clause (e) of the proviso to Section 14(1) of the DRC Act. However, the summary nature of the procedure does not dispense with the statutory right of the tenant to

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defend where the affidavit discloses facts which, if established, would disentitle the landlord from obtaining an order of eviction.

51. Section 25-B(5) of the DRC Act casts a positive obligation upon the Rent Controller to grant leave to defend where the affidavit filed by the tenant discloses facts which, if established, would disentitle the landlord from obtaining an order for recovery of possession. At this stage, the Rent Controller is not required to determine whether the defence raised by the tenant would ultimately succeed at trial. The limited enquiry is whether the facts disclosed in the tenant's affidavit raise a triable issue which, if proved, could defeat the landlord's claim for eviction. Section 25-B of the DRC Act is reproduced hereinbelow:

> **"25-B. Special procedure for the disposal of applications for eviction on the ground of *bona fide* requirement**.- **(1)** Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A[16][or under section 14B or under section 14C or under section 14D], shall be dealt with in accordance with the procedure specified in this section.
>
> **(2)** The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in the Third Schedule.
>
> **(3)** (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.
>
> (b) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee

[16] Ins. by Act 57 of 1988, sec. 13 (w.e.f. 1-12-1998).

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to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) 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.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in clause (c) of the proviso to sub-section (1) of section 14, or under section 14A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in sub-section (2) of section 37, the Controller shall, while holding an inquiry in a proceeding to which this Chapter applies, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court on revision, the Controller may, exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908(5 of 1908).

(10) Save as otherwise provided in this Chapter, the procedure for the disposal of an application for eviction on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A, shall be the same as the procedure for the disposal of applications by Controllers."

52. The Hon'ble Supreme Court, in ***Precision Steel & Engineering***

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Works v. Prem Deva Niranjan Deva Tayal[17], while considering the scope of Section 25-B(5) of the DRC Act, emphasised that the statutory language casts a mandatory obligation upon the Rent Controller to grant leave where the affidavit discloses facts which would disentitle the landlord from obtaining an order of recovery of possession. The Hon'ble Supreme Court further recognised that the question whether a triable issue arises has to be determined with reference to the facts and circumstances of each case.

53. The aforesaid principle was reiterated by the Hon'ble Supreme Court in ***Inderjeet Kaur v. Nirpal Singh***[18], wherein it was held that there appears to be a mistaken belief that the tenant must, at the stage of seeking leave to defend, make out a case so strong as would itself non-suit the landlord. The test is one of a triable issue and not of final success in the eviction proceedings. The Hon'ble Supreme Court further cautioned that, at that stage, the parties ordinarily rely upon affidavits and assertions and counter-assertions, which may not furnish incontrovertible material enabling the Court to arrive at a final conclusion one way or the other. The relevant paragraphs from the said decision are as follows:

> **"11.** As is evident from Sections 25-B(4) and (5) of the Act, burden placed on a tenant is light and limited in that if the affidavit filed by him discloses such facts as would disentitle the landlord from obtaining an order for the recovery of the possession of the premises on the ground specified in clause (*e*) of the proviso to Section 14(1) of the Act, with which we are concerned in this case, are good enough to grant leave to defend.
>
> **12.** A landlord, who bona fidely requires a premises for his residence and occupation should not suffer for long, waiting for eviction of a tenant. At the same time a tenant cannot be thrown out from a premises summarily, even though prima facie he is able to say that the claim of the landlord is not bona fide or untenable and as such not entitled to obtain an order of eviction. Hence the

[17] (1982) 3 SCC 270
[18] (2001) 1 SCC 706

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approach has to be cautious and judicious in granting or refusing leave to defend to a tenant to contest an eviction petition within the broad scheme of Chapter III-A and in particular having regard to the clear terms and language of Section 25-B(5).

13. We are of the considered view that at a stage when the tenant seeks leave to defend, it is enough if he prima facie makes out a case by disclosing such facts as would disentitle the landlord from obtaining an order of eviction. It would not be a right approach to say that unless the tenant at that stage itself establishes a strong case as would non-suit the landlord, leave to defend should not be granted when it is not the requirement of Section 25-B(5). A leave to defend sought for cannot also be granted for mere asking or in a routine manner which will defeat the very object of the special provisions contained in Chapter III-A of the Act. Leave to defend cannot be refused where an eviction petition is filed on a mere design or desire of a landlord to recover possession of the premises from a tenant under clause (*e*) of the proviso to sub-section (1) of Section 14, when as a matter of fact the requirement may not be bona fide. Refusing to grant leave in such a case leads to eviction of a tenant summarily resulting in great hardship to him and his family members, if any, although he could establish if only leave is granted that a landlord would be disentitled for an order of eviction. At the stage of granting leave to defend, parties rely on affidavits in support of the rival contentions. Assertions and counter-assertions made in affidavits may not afford safe and acceptable evidence so as to arrive at an affirmative conclusion one way or the other unless there is a strong and acceptable evidence available to show that the facts disclosed in the application filed by the tenant seeking leave to defend were either frivolous, untenable or most unreasonable. Take a case when possession is sought on the ground of personal requirement, a landlord has to establish his need and not his mere desire. The ground under clause (*e*) of the proviso to sub-section (1) of Section 14 enables a landlord to recover possession of the tenanted premises on the ground of his bona fide requirement. This being an enabling provision, essentially the burden is on the landlord to establish his case affirmatively. In short and substance, a wholly frivolous and totally untenable defence may not entitle a tenant to leave to defend, but when a triable issue is raised a duty is placed on the Rent Controller by the statute itself to grant leave. At the stage of granting leave the real test should be whether facts disclosed in the affidavit filed seeking leave to defend prima facie show that the landlord would be disentitled from obtaining an order of eviction and not whether at the end defence may fail. It is well to remember that when leave to defend is refused, serious consequences of eviction shall follow and the party seeking leave is denied an opportunity to test the truth of the averments made in the eviction petition by cross-examination. It may also be noticed that even in cases where leave is granted provisions are made in this very

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Chapter for expeditious disposal of eviction petitions. Section 25-B(6) states that where leave is granted to a tenant to contest the eviction application, the Controller shall commence the hearing of the application as early as practicable. Section 25-B(7) speaks of the procedure to be followed in such cases. Section 25-B(8) bars the appeals against an order of recovery of possession except a provision of revision to the High Court. Thus a combined effect of Sections 25-B(6), (7) and (8) would lead to expeditious disposal of eviction petitions so that a landlord need not wait and suffer for a long time. On the other hand, when a tenant is denied leave to defend although he had fair chance to prove his defence, will suffer great hardship. In this view a balanced view is to be taken having regard to competing claims.

14. This Court in ***Charan Dass Duggal* v. *Brahma Nand*** **[(1983) 1 SCC 301]** while dealing with the question in the matter of granting leave to defend to contest the eviction petition filed on the ground of personal requirement, in para 5 has stated thus: (SCC pp. 302-03)

> "*5*. What should be the approach when leave to defend is sought? There appears to be a mistaken belief that unless the tenant at that stage makes out such a strong case as would non-suit the landlord, leave to defend cannot be granted. This approach is wholly improper. When leave to defend is sought, the tenant must make out such a prima facie case raising such pleas that a triable issue would emerge and that in our opinion should be sufficient to grant leave. The test is the test of a triable issue and not the final success in the action (see ***Santosh Kumar* v. *Bhai Mool Singh*** **[AIR 1958 SC 321 : 1958 SCR 1211]**). At the stage of granting the leave parties rely in support of their rival contentions on affidavits and assertions and counter-assertions on affidavits may not afford such incontrovertible evidence to lead to an affirmative conclusion one way or the other. Conceding that when possession is sought on the ground of personal requirement, an absolute need is not to be satisfied but a mere desire equally is not sufficient. It has to be something more than a mere desire. And being an enabling provision, the burden is on the landlord to establish his case affirmatively. If as it appears in this case, the landlord is staying at Pathankot, that a house is purchased, may be in the name of his sons and daughters, but there may not be an apparent need to return to Delhi in his old age, a triable issue would come into existence and that was sufficient in our opinion to grant leave to defend in this case."

In the same judgment, in para 7 it is further observed: (SCC p. 303)

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"*7.* The genesis of our procedural laws is to be traced to principles of natural justice, the principal amongst them being that no one shall suffer civil or evil or pecuniary consequence at his back without giving him an adequate and effective opportunity to participate to disprove the case against him and provide his own case. Summary procedure does not clothe an authority with power to enjoy summary dismissal. Undoubtedly wholly frivolous defence may not entitle a person leave to defend. But equally a triable issue raised, enjoins a duty to grant leave. Maybe in the end the defence may fail. It is necessary to bear in mind that when leave to defend is refused the party seeking leave is denied an opportunity to test the truth of the averments of the opposite party by cross-examination and rival affidavits may not furnish reliable evidence for concluding the point one way or the other. It is not for a moment suggested that leave to defend must be granted on mere asking but it is equally improper to refuse to grant leave though triable issues are raised and the controversy can be properly adjudicated after ascertainment of truth through cross-examination of witnesses who have filed their affidavits. Burden is on the landlord to prove his requirements and his assertion is required to be tested more so when it is shown that for long he is staying outside Delhi, that he has a building albeit standing in the names of his sons and daughters where he is staying and at which place he receives his normal correspondence. If in such a situation one can say that a triable issue is not raised, one is at a loss to find out where, when and in what circumstances such an issue would arise. We are, therefore, satisfied that this is a case in which triable issues were raised and both the learned Rent Controller and the High Court were in error in refusing to grant the leave."

15. This decision is also referred to, reiterating the same view, in a later decision of this Court in the case of *Precision Steel & Engg. Works* v. *Prem Deva Niranjan Deva Tayal* [(1982) 3 SCC 270]."

(emphasis supplied)

54. Similarly, in ***Charan Dass Duggal v. Brahma Nand***[19], the Hon'ble Supreme Court held that when leave to defend is sought, the tenant is required to disclose a *prima facie* case raising a triable issue. The test is not whether the defence would ultimately succeed. It was

[19] (1983) 1 SCC 301

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further emphasised that a summary procedure does not clothe the Rent Controller with the power to summarily dismiss a defence where the controversy requires adjudication upon evidence and examination of witnesses. The said principles were subsequently reiterated in ***Inderjeet Kaur*** (supra).

55. The aforesaid principles have particular significance in a petition under Section 14(1)(e) of the DRC Act, since the requirement of the landlord is required to be *bona fide*. The Hon'ble Supreme Court in ***Inderjeet Kaur*** (supra) has specifically observed that where possession is sought on the ground of personal requirement, the landlord has to establish a genuine need and not merely a desire. Where the defence raised by the tenant is not wholly frivolous or untenable and raises a triable issue concerning such requirement, leave to defend ought to follow.

56. It is equally well settled that while the landlord's assertion of *bona fide* requirement is entitled to due consideration, such assertion is not immune from scrutiny at the stage of leave to defend. In ***Baldev Singh Bajwa v. Monish Saini***[20], while considering a similar statutory scheme, the Hon'ble Supreme Court recognised that the requirement of the landlord has to be genuine or *bona fide* and that the tenant cannot be deprived altogether of the opportunity to demonstrate that the requirement is not genuine. The tenant, however, has to place cogent material facts before the Controller to rebut the initial presumption in favour of the landlord.

57. Thus, the enquiry under Section 25-B(5) of the DRC Act lies between two extremes. While leave to defend cannot be granted on the basis of vague, bald or wholly frivolous assertions, the tenant is not

[20] (2005) 12 SCC 778

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required to conclusively establish his defence or prove that the eviction petition must ultimately fail.

58. Upon a cumulative consideration of the foregoing statutory provisions, the scheme and object of Section 25-B of the DRC Act, and the principles consistently laid down in the judicial precedents referred to hereinabove, the following principles emerge as governing the exercise of jurisdiction by the Rent Controller while considering an application for leave to defend under Section 25-B(5) of the DRC Act:

(a) Section 25-B(5) casts a positive and mandatory obligation upon the Rent Controller to grant leave where the tenant's affidavit discloses material facts which, if established, would disentitle the landlord from obtaining an order of eviction.

(b) The test is whether the tenant has disclosed a triable issue, and not whether the defence would ultimately succeed. The tenant need only make out a *prima facie* case warranting adjudication and is not required to conclusively establish the defence at this stage.

(c) Where the defence involves disputed questions of fact requiring evidence, cross-examination or fuller adjudication, such issues ordinarily warrant leave and should not be conclusively determined merely on the basis of competing affidavits.

(d) The summary procedure under Section 25-B is intended to ensure expeditious disposal and does not permit summary rejection of a defence where a genuine triable issue is disclosed.

(e) In proceedings under Section 14(1)(e), the landlord must establish a *bona fide* requirement and not merely a desire for possession. Material facts which genuinely place such

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requirement in issue may therefore constitute a triable issue. Conversely, vague, bald, frivolous or wholly untenable assertions do not constitute a triable issue and, by themselves, do not warrant grant of leave.

(f) The tenant's pleadings must be considered cumulatively. Where the facts disclosed, read with the material on record, raise a reasonable and *bona fide* controversy concerning an essential ingredient of the landlord's claim, the tenant ought to be granted leave to defend.

59. It is in the backdrop of the aforesaid statutory framework and the principles governing the grant of leave to defend under Section 25-B(5) of the DRC Act that the findings and conclusions recorded by the learned RC in the present case are required to be examined. The relevant findings and observations contained in the Impugned Order are extracted hereinbelow for ready reference:

> "i) **<u>Availability of alternate suitable accommodation.</u>**
>
> Respondent has stated that petitioners are in possession of property no. 1303, Katra Dhuliya, Chandni Chowk from where Sh. Ram Kishan is carrying on his business. However, the petitioner has already stated in reply to leave to defend that the said property is a small rented accommodation measuring 12X7 feet and the same was taken on rent only in June 2008. Even rent receipts with respect to the said property have been filed by the petitioners. The respondent had contended that the said rent receipts can not be taken into account as the same is not signed by tenant. However, the contentions of the respondent is baseless as the said rent receipts is duly signed by the landlord. Since, the petitioner is claiming that he has taken the said property on rent, it was imperative that the same should have been signed by the landlord, which is the case herein.
>
> ii **Property no. A-2, Bhamashah Road**, Delhi:- It is contended by the petitioner that the said property had been taken on rent only for 11 months.
>
> The respondent had merely made bald allegations, without any supporting documents or proof to show that the said property is still in occupation of the petitioner.

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iii **Property no. B-3/2, Rana Pratap Bagh**, Delhi:-The respondent had merely made bald allegations, without any supporting documents or proof to show that the said property is still in occupation of the petitioner.

iv **Propety no. C-7/7, Model Town**, Delhi:-As regard this property, respondent himself has mentioned in his first application for subsequent events dated 03.03.2016, in para no. 7 that the said property is on first floor. It is further contended by the petitioner that the said property is purely residential.

The respondent had not been able to show by way of documentary or any other evidence that the said property is being utilized for commercial purpose.

v **Property no. D-6/2A, First Floor, Rana Pratap Bagh**, Delhi:- The respondent had not been able to show by way of documentary or any other evidence that the said property is being utilized for commercial purpose.

14. In order to show that the property is alternatively availabile, it is essential for the respondent to show that the property available is also suitable to meet the bonafide requirement as set by the petitioner in the eviction petition. In the present case, the respondent had mentioned number of properties which are available to the petitioner, however, as per the petitioner, need of the petitioner is for commercial property. The mere occupation or possession of property in residential area would not meet the need of the petitioner suitably. As regard, the properties which have been taken on rent by the petitioner, it is more practicle for any person to utilize the property he owns rather than to take another property on rent to meet his requirement.

> *"it has been held by Hon'ble Delhi High Court recently* ***in KHEM CHAND & ORS. Vs. ARJUN JAIN & ORS. pronounced on 13.09.2013****, "that while applying the principle that landlord is the best judge in case of commercial tenancy, the court should act cautiously and should not apply principle to such case as liberally as applied on residential premises. The principle that the landlord is the best judge to decide his residential requirements and the court has no business to interfere cannot be applied as a matter of necessary consequence without application of the judicial mind. This is due to the reason that even though the ground of eviction available to the landlord to vacate the tenant for both residential or commercial premises is the same, still the requirement of landlord vary from case to case basis. Eviction of the commercial premises effects right to livelihood of one person who is a tenant. The said right of livelihood is equally the other facet of right to live as available to the landlord under Article 21 of the Constitution of India. Thus, in the event of adopting a summary procedure to vacate the tenant, who is earing his livelihood from a*

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commercial place at the behest of the landlord and proceeding to effect the longstanding status of commercial tenancy on the ground of bonafide requirement, the court must take a precautious approach. While deciding question of genuineness of the need or availability of alternative accommodation, the court must apply judicial mind rather than merely reiterating the theorem based principle that landlord is the best judge to decide his need. The court should weigh the competing right to livelihood of both the landlord and the tenant and adopt a balance approach".

"The Supreme Court in ***Dhannalal v. Kalawatibai (2002) 6 SCC 16*** *held that 'an alternative accommodation', to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparision with the accommodation whereform the landlord is seeking eviction. It was further held that the availability of another accommodation suitable and convenient in all respects as the accommodation from which the landlord is seeking eviction may have an adverse bearing on the finding as to bonafides of the landlord, if he unreasonably refuses to occupy the available premises to satisfy his alleged need. It was yet further held that the bonafides of the need of the landlord for the premises or additional premises have to be determined by the Court by applying objective standards and once the Court is satisfied of such bonafide, then in the matter of choosing out of more accommodation than one available to the landlord, his subjective choice shall be respected by the Court. It was yet further held that for the business which the landlord proposes to start, an accommodation situated on the first floor cannot be said to be an alternative suitable accommodation in comparision with the shops situated on the ground floor; a shop on the first floor cannot attract the same number of customers and earn the same business, as a shop situated on the ground floor would do. Again, in* ***Uday Shankar Upadhyay v. Naveen Maheshwari*** *(2010) 1 SCC 503, it was held that it is not for the Courts to say that the landlord should shift to the first floor or any higher floor as it is well known that shops and businesses are usually conducted on the ground floor, because the customers can reach there easily. It was reiterated that the Court cannot dictate to the landlord which floor he should use for his business and that is for the landlord himself to decide".*

"In ***Ramesh Chand vs. Uganti Devi, 157 (2009) DLT 405****, it has been clearly held that "A tenant who alleges that landlord has at his disposal other accommodation has to place before the Ld. ARC some material to show that the landlord has a specific alternative accommodation at his disposal" Therefore, even if the petitioner has properties*

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available, the same are already occupied or are in residential area. The property in question is situated at a Commercial hub, and the respondent had not been able to bring out any property which is equally suitable to the petitioner as the tenanted premises".

The respondent had contended that the petitioners have purchased the abovesaid property at Rana Pratap Bagh, Delhi. However, the entire family of the petitioners are not expected to adjust in one accommodation, specially when the petitioners were earlier residing at Sultan Singh and had ample space. The growing need of the petitioners for residence cannot be ignored.

In the judgment tiled as ***"Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta" reported as AIR 1999 SUPREME COURT 2507*****,** it was held:

"...The landlord may convince the Court that the alternate residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternate accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction.

Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the Court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come...".

Further, in another landmark case of "**Sarla Ahuja v. United India Insurance Co. Ltd., reported as AIR 1999 SUPREME COURT 100"**, whereby it was held that :

".....The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by Courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bonafides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself....".

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Therefore, expecting that the petitioners would adjust themselves in a small space or would sit idle till the disposal of the eviction petition, would go beyond the scope of DRC Act. The need of the petitioners cannot be looked into with criminal suspicion. Neither the need of the petitioners can be rejected only on the ground that they have acquired residential property. The respondent had taken the risk while bidding before the Hon'ble Delhi High Court and had tendered the rent even after the bid. The respondent was aware of the consequences of the bid, specially when the other bidding party was the owner of the tenanted premises. In respect of other properties in the bid, it was categorically stated that ownership rights were being transferred. The concept of perpetual or permanent tenancy cannot be stretched in the present case. The term that the parties would enjoy unhindered and unobstructed possession, did not mean that that the respondent would enjoy the property forever. It could have meant that the parties would not interfere with the possession illegally, however, in the present case, the petitioner had approached the court within the boundary of law. Furthermore, it had already been held by Hon'ble DB, that the petitioner can file eviction petition.

In view of the above, the plea regarding availability of alternate suitable accommodation is dismissed.

iii) It is contended that the tenated premises was commercial in nature and the judgment in Satyawati has not attained finality.

The respondent had taken exhaustive pleas on the validity of the judgment titled as, **Satyawati Sharma Vs Union of India 2008 5SCC 287.**

Admittedly, there is no stay as to the operation of law as held in the landmark judgment **Satyawati Sharma Vs Union of India 2008 5SC 287**. Therefore, the plea taken by the respondent is rejected as baseless.

iv) That the petitioners intend to sell the tenanted premises on huge Pugree and therefore the petition has been filed malafidely.

The only consideration before the Court while deciding leave to defend is whether the need of the petitioner is bonafide and whether the petitioner does not have any other suitable alternate accommodation. The apprehension that the petitioner might not utilize the property for the bonafide purpose or he might resell it, has been taken care of by the legislature in Section 19 of DRC Act itself. Hence, leave to defend can not be granted on the mere apprehension of the property being resold. The plea is accordingly rejected.

v) **Non-filing of the complete site plan of the entire accommodation.** The respondent had merely stated that many portion of the entire accommodation are in the occupation of the petitioner and are lying locked and vacant. However, no supporting document has been filed by the respondent to clearly show as to which all portions are available with the petitioner. The respondent himself has not filed the site plan of complete accommodation and

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only site plan of ground floor of the property (tenanted premises) has been filed.

If a tenant does not file any site plan, then site plan filed by the landlord is assumed to be correct. R.K. Bhatnagar Vs. Sushila Bhargav 1986 RLR 232; Jagmohan Singh Vs. K.M. Bhatnagar 1995 RR 527; V.S. Sachdeva vs M. L. Grover 67(1997) DLT 737; Harvansha Lal vs Madan Lal 1997RLR383;

The respondent had further contended that the petitioner has wrongly named certain rooms as godown, however, the same is only nomenclature used by the petitioner.

The tenanted premises is in possession of the respondent, the respondent herein had not disputed the size of the tenanted premises, therefore, the plea taken by the respondent is rejected being baseless.

vi) It has been contended by the respondent that he had got physical possession of the tenanted premises in a compromise which was arrived on 23.10.2007 before Hon'ble Delhi High Court after paying huge bid amount. It had been further stated that in the said order of Hon'ble Delhi High Court, it was categorically stated that **"Whoever suceeds to this property consequent to the bid would not be hindered in the enjoyment of the same".**

Hence, it had been contended that once the respondent had paid amount towards the premises, the tenancy could be best described as permanent tenancy and therefore, the petitioner has not right to obtain possession by filing eviction petition. The respondent had also challenged the bonafide need of the petitioner stating that the tenancy rights were acquired in bid and present petition has been filed after 100 days of handing over of the possession.

I have perused the orders of Hon'ble Delhi High Court and the Apex Court.

Hon'ble Division Bench of HMJ Sanjiv Khanna and HMJ S.P. Garg, Delhi High Court had set aside the order of execution of settlement qua the tenanted premises, holding that only the tenancy rights have been acquired by Sh Ram Charan in the bid and not the ownership rights as such. That Sh ram Charan had moved Review petition of the said order, stating that it had been agreed that he would not be evicted. The said Review was also dismissed, as the same was found without merits, vide order dated 26.9.2012.Sh Ram Charan preferred SLP against the said order, and the same was also dismissed vide order dated 24.1.2013. The Review petition was also dismissed the apex court vide order dated 10.7.2013.

In paragraph no. 26 of EFA(OS) 23 and 24 of 2010, dated 03.08.2012, i.e order on appeal by DB of Hon'ble D.B. of HMJ Sanjiv Khanna and HMJ SP Garg, it is stated that "Ld. Counsel for the respondent submitted that reading of the order dated 14.02.2008 and the statement of the parties recorded on the same date show that the parties were entitled to possession and enjoy

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properties without any obstruction. The contentions do not have any merits. The order and the statement of the parties show what was to be transferred and handed over was the possession of the property. The tenancy rights of the property were earlier in favour of partnership firm of which both Ram Gopal and Ram Charan were partners. In view of the aforesaid order and payment made, Ram Charan became the sole tenant and entitled to tenancy rights in the property to the exclusion of Ram Gopal. It was to this extent and reason that the possession was to be transferred. In none of the orders, it is recorded that ownership of the property was to be transferred". Further, in para 23 of the same order, it had been held that "the respondent had given bid only for tenancy rights and not for the ownership rights that belongs to Prem Lata and Ram Kishan.

In para 29, it had been held that "the respondent was aware that he was giving a bid for the tenancy rights and not the ownership rights. When the bids were given, they also took the inherent risk involved when a person take or required tenancy rights, which are protected in law. Any other person or third person could have been landlord or owner of the property and right to seek eviction would have approved to the benefit of said owner or landlord".

Hence, it is ample clear and had been already held by the Hon'ble Division Bench of Hon'ble Delhi High Court and the same has been affirmed by the Apex Court that ownership rights were not transferred to the respondent. As regard to the claim of the respondent with respect to permanent tenancy, the term "use of property without obstruction" has also been dealt with in the above order of the Hon'ble Division Bench of Hon'ble Delhi High Court. In fact, it has been categorically stated in the abovesaid order that the right to file eviction petition would not be dilluted. The respondent had been taken plea regarding permanent tenancy, however, the same goes against the order of the Hon'ble Division Bench of Hon'ble Delhi High Court as mentioned above. It had already been held that the respondent had taken the risk of the tenancy while bidding for the same. The issue once decided operates as resjudicata and can not be readjudicated in the present petition as a plea in leave to defend.

As per law, the ownership rights can not transferred only in view of the transfer of property act coupled with registration act. In the present case, the respondent had got the compromise arrived before the Hon'ble Delhi High Court registered, however, mere registration of the compromise would not change and would not come in the way of the finality of order of the Hon'ble Delhi High Court. Once, it had been held that the petitioner herein have the right to file the petition for eviction, the respondent can not claim that since the compromise had been registered, respondent had acquired some special rights even contrary to what has been held by the Hon'ble Division Bench.

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Respondent has relied upon number of judgments in support of his contentions of permanent tenancy, however, same are not relevant in view of the discussion above.

The respondent has challenged the bonafide of the petitioner.

Bonafide requirement

In order to evaluate whether the need of the petitioner is bonafide or not, let us understand the legislative and judicial connotation of the term, 'bonafide'.

In landmark case ***Deena Nath v. Pooran Lal,*** **(2001) 5 SCC 705** wherein the Supreme Court observed thus:-

> *"The Legislature in enacting the provision has taken ample care to avoid any arbitrary or whimsical action of a landlord to evict his tenant. The statutory mandate is that there must be first a requirement by the landlord which means that it is not a mere whim. or a fanciful desire by him; further, such requirement must be bonafide which is intended to avoid the mere whim or desire.* ***The bonafide requirement' must be in presenti and must be manifested in actual need which would evidence the Court that it is not a mere fanciful or whimsical desire.*** *The legislative intent is made further clear by making the provision that the landlord has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned. This requirement lays stress that the need is pressing and there is no reasonably suitable alternative for the landlord but to get the tenant evicted from the accommodation. Similar statutory provision is made in sub-section (e) of Section 12(1) of the Act in respect of accommodation let for residential purposes. Thus, the legislative mandate being clear and unambiguous,* ***the Court is duty-bound to examine not merely the requirement of the landlord as pleaded in the eviction petition but also whether any other reasonably suitable non-residential accommodation in his occupation in the city/town is available,*** *The judgment/order of the court/authority for eviction of a tenant which does not show that the court/authority has applied its mind to these statutory requirements cannot be sustained and the superior court will be justified in upsetting such judgment/order in appeal/second appeal/revision.* ***Bonafide requirement, on a first look, appears to be a question of fact.*** *But in recording a finding on the question the court has to bear in mind that statutory mandate incorporated in Section 12(1)(f).* ***If it is found that the court has not applied the statutory provisions to the evidence on record in its proper perspective then the finding regarding bonafide requirement would cease to be a mere finding of fact. for such erroneous finding illegally arrived at would vitiate the entire judgment."***

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Chambers 20th Century Dictionary defines bona fide to mean "in good faith and genuine". Requirement is not a mere desire. The degree of intensity contemplated by "requires" is much more higher than in mere desire. The phrase "required bonafide" is suggestive of legislative intent that a mere desire which is the outcome of whim or fancy is not taken note of by the rent control legislation. A requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contradistinction with mere pretence or pretext to evict a tenant, on the part of the landlord claiming to occupy the premises for himself or for any member of the family would entitle him to seek ejectment of the tenant. Looked at from this angle, any setting of the facts and circumstances protruding the need of the landlord and its bonafides would be capable of successfully withstanding the test of objective determination by the court. In short, the concept of bonafide need or genuine requirement needs a practical approach instructed by the realities of life. It is no concern of the Courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own.

The meaning of "Bonafide" in the context appears to be in two folds. (a) the need of the landlord must be a genuine one and not a frivolous one. (b) landlord is not motivated by extraneous considerations in trying to recover the possession from the tenant with a view to let it out again to another tenant at a higher rent.

It had been contended that since the present petition has been filed within 100 days of the compromise, it means that the need of the petitioner is not bonafide. However, as has been held in the Judgment of the Hon'ble DB as held above, mere bid before the Hon'ble Delhi High Court did not take away the right of the petitioner to file eviction petition. The respondent must have carried the risk of eviction and tenancy at the time of bidding.

In the present case, the petitioners had stated that they have no place to carry out business. As regards shop no 1303, the same is rented out. Even otherwise, the petitioners are not supposed to sit idle and the law does not mandate that after filing of the eviction petition, the petitioner/landlord cannot do any business. The present petition was filed in 2008, more than 12 years have already passed.

In view of the above the pleas taken by the defendants are rejected.

vii) That Ms. Prem Lata is a very simple lady having no business acumen. Hence,

It had been held in **Rishal Singh V Bohat Ram, RC Rev** 495 of 2012, High ourt of Delhi, by HMJ Najmi Waziri, that "The argument of the counsel of the tenant that the grandson of the landlord, lacking the skill and knowledge to operate such a business, should not be granted eviction petition, lacks merit as there is rich body of judicial pronouncements which has settled the law, by holding that the landlord or the member of the family of

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the landlord who is construed to be dependent,does not necessarily need to possess the skill or knowledge in the area of business for which the eviction is sought.

In **Ram Babu Vs Jai Kishan 2009 RL 58 (NSC), SC,** it had been held, "a person can start a new business even if he has no experience. That does not mean his claim is a false claim. Many people start new businesses even if they do not have experience in the new businesses, and are successful."

viii) That petitioner no. 2 is carrying out the business from 1303, under the name and style of M/s Mittal Enterprises and the need of the petitioners is malafide. It had been further contended that the income of the petitioner had been increased from Rs. 2.2 lakhs in year 2010 to Rs. 45 lakhs in the year 2018 and petitioner has purchased D6/2A, Rana Pratap Bagh, Delhi and hence, the petitioners do not require the tenanted premises.

The respondent has placed clipping in pen drive on record and also certain documents. It has been contended that phone number of petitioner no. 2 has been mentioned on the documents of Mittal Enterprises, hence, petitioner no. 2 only is carrying out business of Mittal Enterprises in the name of his wife.

The facts that the income of the petitioners have increased does not stops the petitioners from working or from filing eviction petition.

I have perused all the documents filed by the respondents and have also gone through the pen drive. There is apparently nothing on the record to show that the petitioner no. 2 is carrying out the business in the name of his wife. Merely because the phone number of the petitioner no 2 is mentioned on the record of the M/S Mittal Enterprises, do not mean that the petitioner no 2 is carrying out the business. Eevn otherwise, the petition has been filed for the business need of all the petitioners. Law does not expect the landlord to sit idle. Each and every petitioner, is entitled to start a business and to work, irrespective of the fact whether the other members of his family are working or not. The tenant cannot curtail the fundamental right of a person to work.

On the other hand, the respondent has himself has stated that the premises are in the dilapidated condition. The respondent has himself has not placed any document on record to show that he is actually working from the tenanted premises or that the tenanted premises are being utilized by the tenant. The respondent had taken a plea that the premises is situated in congested area and therefore the same is not suitable. There is no bar on carrying out of business from the area in which the tenanted premises is situated. Furthermore, the premises, admittedly, is situated in commercial hub in Chandni Chowk, Delhi, hence, can not be said that the same is not suitable for carrying out commercial activity.

The respondent had made bald allegations challenging the bonafide of the petitioners, however, there is no bar under law that

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husband and wife can have two separate businesses. The plea taken by the defendant is thus rejected.

11. In ***Ram Swaroop v. Viney Kumar Mahajan dated 24h July, 2017 in RC Rev. No. 112/2016*** *and* ***Lalta Prasad Gupta v. Sita Ram dated 2nd August, 2017 in RC Rev. No. 352/2017,*** *it has been held that leave to defend application has to be treated differently from a written statement and on the basis of simple denial of averments in the petition for eviction or by merely making vague averments, leave to defend cannot be obtained and that if the same were to be permitted there would be hardly any case where leave to defend would be refused in as such as the Advocates with their skilful drafting would be able to take pleas in the application for leave to defend irrespective of whether there is any merit therein or not.*

Section 25 (B) 5 of the Delhi Rent Control Act requires the tenant to, in the application for leave to defend, disclose facts as would disentitle the landlord from obtaining an order of eviction under Section 14 (1) (e) of the Rent Act. If the facts disclosed, even though disputed by landlord, even if believed, would not disentitled the landlord from obtaining an order of eviction under Section 14 (1) (e), then also, no leave to defend has to be granted. Only if the facts disclosed in the application for leave to defend are such which though are disputed by the landlord but on trial if proved would disentitle the landlord from obtaining an order of eviction under Section 14 (1) (e) of the Act, can leave to defend be granted.

When the tenant does not produce anything at all before the Court on the basis whereof there is any chance of the tenant proving what he has stated, the only inference is that the facts disclosed are not capable of being proved and/or not capable of disentitling the landlord from obtaining an order of eviction under Section 14 (1) (e) of the Rent Act.

In ***Labhu Lal v. Sandhya Gupta, 173 (2010) DLT 318***, it was held that "Before leave to defend is granted, the respondent must show that some triable issues which dis-entitled the applicant from getting the order of eviction against the respondent and at the same time, entitled the respondent to leave to defend existed. The onus is prima facie on the respondent and if he fails, the eviction follows." *Hence, in view of the above discussion, I am of the view that the respondent had not been able to put forth a defence which if proved would disentitle the petitioners of the relief claimed. The respondent had not been able to prove how the bonafide need as portrayed by the petitioners is not bonafide or that the petitioners are having alternate suitable accommodation which can be utilized to meet the bonafide need.*

12. In view of the above discussion and the judicial pronouncements, leave to defend application is dismissed. Landlord tenant relationship is not disputed. The petitioner has been able to establish its better title on the tenanted premises. As

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discussed in the aforesaid paragraphs, the petitioner has been able to prove its bonafide requirement as well. Since leave to defend is dismissed, and considering the petitioner has shown its bonafide and fulfilled the requisites of section 14 DRC, petitioner has become entitled to eviction. Consequently, eviction order is liable to be passed against the respondents u/s Section 25 B (4) of the Act. In view of above, petitioner is held entitled for recovery of the tenanted premises, ground floor of the property bearing no. 1375, Gali Lehwan, Chandni Chowk, Delhi-110006, as shown in the red color in the site plan as annexed with the petition.

However, the petitioner would not be entitled to initiate execution proceedings for recovery of possession of the tenanted premises before expiration of six months from today in view of provisions given in Section 14 (7) of the Act. Keeping in view the facts & circumstances of the case, no order as to costs."

60. A bare perusal of the Impugned Order, as extracted hereinabove, shows that the learned RC considered the objections raised by the Petitioner in detail. While doing so, in respect of the contentious facts, the learned RC made the following material findings:

(a) In relation to property No. 1303, Katra Dhuliya, Chandni Chowk, the learned RC recorded that the premises measured approximately 12' × 7' feet and had been taken on rent by the Respondents herein (*Petitioners therein*) in June 2008. The learned RC also accepted the rent receipts relied upon by the Respondents herein.

(b) In relation to property No. A-2, Bhamashah Road, Delhi, the learned RC noted the contention of the Respondents that the premises had been taken on rent for a period of only 11 months. The learned RC further observed that the Petitioner herein (*Respondent therein*) had produced no material to establish that the premises continued to be in the occupation of the Respondents herein.

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(c) In relation to property No. B-3/2, Rana Pratap Bagh, Delhi, the learned RC similarly recorded that the Petitioner herein had produced no material to establish that the premises continued to be in the occupation of the Respondents herein.

(d) In relation to property No. C-7/7, Model Town, Delhi, the learned RC noted that the premises were situated on the first floor and that the Respondents herein claimed them to be purely residential. The learned RC further observed that the Petitioner herein had produced no material to establish that the premises were being used for commercial purposes.

(e) In relation to property No. D-6/2A, First Floor, Rana Pratap Bagh, Delhi, the learned RC recorded that the Petitioner herein had produced no documentary or other material to establish that the premises were being used for commercial purposes.

(f) The learned RC also recorded the contention of the Petitioner herein that Respondent No. 2 herein was carrying on business from property No. 1303 under the name and style of M/s Mittal Enterprises, and that the income of the Respondents herein had increased from approximately Rs. 2.2 lakhs in 2010 to Rs. 45 lakhs in 2018.

(g) In support of that contention, the learned RC noted the documents and other material relied upon by the Petitioner herein, including documents bearing the telephone number of Respondent No. 2 in connection with M/s Mittal Enterprises. According to the Petitioner herein, those documents indicated that Respondent No. 2 was carrying on the business in the name of his wife.

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(h) Upon considering the material on record, the learned RC found no material to establish that Respondent No. 2 herein was carrying on the business of M/s Mittal Enterprises in the name of his wife.

(i) The learned RC further noted that the Petitioner herein had himself described the tenanted premises as being in a dilapidated condition and situated in a congested area.

(j) The learned RC also noted that the tenanted premises were situated in Chandni Chowk, which was admittedly a commercial area.

(k) The learned RC further recorded that the Petitioner herein had produced no material to establish that he was actually carrying on business from the tenanted premises or that the premises were being used by him for any commercial purpose.

(l) On a cumulative consideration of the aforesaid and its other findings, the learned RC concluded that the Petitioner herein had failed to establish either that the Respondents herein had alternative suitable accommodation or that their pleaded requirement was not *bona fide*. On that basis, the application for leave to defend was dismissed.

61. On a consideration of the aforesaid findings in conjunction with the other factual circumstances of the present case, this Court is of the view that the learned RC failed to apply the requisite legal test for determining whether the Petitioner had disclosed facts warranting the grant of leave to defend. On a consideration of the material on record, this Court is unable to sustain the conclusion that the Petitioner's application for leave to defend was liable to be rejected.

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62. The error in the learned RC's approach is evident from the manner in which the objections raised by the Petitioner were considered. The learned RC repeatedly proceeded on the basis that the Petitioner had failed to prove or conclusively establish various aspects of the case, including the availability and suitability of the alternative properties and their alleged use. This approach, however, overlooks the limited and specific enquiry required at the stage of considering an application for leave to defend under Section 25-B of the DRC Act. At that stage, as noted hereinabove, the Court is not required to finally adjudicate disputed questions of fact or determine whether the tenant has conclusively established the defence sought to be raised.

63. Once the contents of the affidavit filed by the Petitioner, considered along with the material brought on record, disclosed facts and circumstances which, *prima facie*, could bear on the landlord's pleaded requirement, the availability or suitability of alternative accommodation, or another essential element of the eviction claim, the learned RC was required to consider whether those assertions raised a genuine and triable issue. The enquiry at that stage was not whether the Petitioner had already proved those assertions by conclusive documentary or other evidence. If the material on record disclosed a plausible factual dispute requiring adjudication on evidence, leave to defend ought to have been granted. The parties could then lead appropriate evidence and place the necessary material on record, after which the disputed factual issues could be finally determined.

64. A plain reading of the Impugned Order, however, shows that the learned RC took substantially converse approach. The learned RC appears to have required the Petitioner to establish, at the threshold, the very facts constituting the proposed defence.

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65. The question before the learned RC was not whether the Petitioner had conclusively proved, at the leave to defend stage, that, *inter alia*, the alternative properties were available to and suitable for the Respondents, that the tenanted premises were being used by him for commercial purposes, or that Respondent No. 2 was carrying on business under the name and style of M/s Mittal Enterprises. The question was whether the facts pleaded by the Petitioner, supported by the material on record, raised a reasonable and *bona fide* dispute which, if established, could affect the Respondents' entitlement to an order of eviction. In the considered opinion of this Court, the Impugned Order does not show that this distinction was adequately appreciated or applied.

66. A perusal of the Impugned Order further shows that, although the learned RC referred to judgments laying down the principles governing the grant or refusal of leave to defend, those principles were not appropriately applied to the facts of the present case. Merely stating the correct legal principles is insufficient; the material question is whether the tenant's factual objections and supporting material were examined in accordance with those principles. The findings recorded by the learned RC indicate that the enquiry proceeded on whether the Petitioner had proved the assertions in his affidavit, rather than whether those assertions, if established, could affect the Respondents' entitlement to an eviction order and therefore warranted an opportunity to defend the proceedings.

67. The consequence of this approach is particularly significant in the present case. Several objections raised by the Petitioner concern disputed questions of fact relating to the nature, availability, occupation and use of different properties, as well as the alleged

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carrying on of business from one of them. Depending on the material ultimately brought on record, these matters may require examination of documentary evidence, the circumstances surrounding the occupation and use of the properties and, where necessary, oral evidence. By requiring the Petitioner to establish these matters conclusively at the threshold, the learned RC effectively subjected the application for leave to defend to a standard of proof applicable to the final adjudication of the eviction petition.

68. In these circumstances, this Court is of the considered view that the learned RC failed to undertake the enquiry required at the stage of considering the Petitioner's application for leave to defend. The Impugned Order proceeds substantially on the basis that the Petitioner had failed to conclusively establish the facts pleaded in support of the defence. This amounts to an erroneous application of the governing principles and renders the rejection of the application for leave to defend unsustainable.

69. At this juncture, this Court also notes that the dispute between the parties was not an ordinary landlord-tenant dispute. The subject premises had been the subject matter of prolonged litigation between two branches of the family. That litigation culminated in a settlement recorded before this Court, pursuant to which the parties participated in a bidding process concerning the properties in question. The parties' rights in respect of the subject premises were thereafter the subject matter of further proceedings, which ultimately resulted in the judgment dated 03.08.2012 passed by the Division Bench in EFA(OS) Nos. 23-24/2010.

70. It is not in dispute that, pursuant to the settlement and bidding arrangement, the Petitioner acquired tenancy rights in respect of the

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subject premises and possession thereof was handed over to him on 28.08.2008. The Eviction Petition was instituted on 05.12.2008. Thus, approximately 100 days elapsed between the handing over of possession and the institution of the Eviction Petition.

71. The significance of this chronology cannot be brushed aside merely by observing that the Respondents were legally entitled to institute an eviction petition. The Division Bench judgment dated 03.08.2012, which subsequently attained finality, determined the nature of the rights acquired by the Petitioner pursuant to the settlement and recognised that the Respondents, as owners, retained the statutory right to seek eviction in accordance with law. However, that judgment did not adjudicate upon the *bona fide* nature of the requirement subsequently pleaded by the Respondents in the Eviction Petition.

72. The distinction is material. Whether the Respondents retained a legal right to seek eviction is one question; whether the requirement pleaded by them satisfied the statutory test of *bona fide* requirement under Section 14(1)(e) of the DRC Act is another. The former does not, by itself, determine the latter.

73. The Petitioner specifically pleaded that, pursuant to the settlement, the Respondents had surrendered or given up the premises from which they had been carrying on their business and that the alleged shortage of commercial accommodation was, therefore, a circumstance brought about by an arrangement voluntarily entered into by them. The Petitioner further relied upon the substantial consideration paid pursuant to the bidding arrangement and the fact that the Eviction Petition was instituted shortly after possession of the subject premises had been handed over to him. In this regard, the

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Petitioner also pleaded that he had successfully bid for the subject premises for a consideration of Rs. 3.00 crores, out of which Rs. 1.50 crores were paid to the Respondents and their family members in terms of the bidding arrangement.

74. These circumstances, considered individually, may not necessarily establish that the requirement of the Respondents was *mala fide*. That, however, is not the enquiry at the leave stage. The contention is whether these circumstances, if established by evidence, could bear on the *bona fide* nature of the pleaded requirement. In this Court's view, they could.

75. The parties had consciously and voluntarily agreed to resolve the use and occupation of the premises through a fair bidding process, which resulted in the Petitioner acquiring the right to use and occupy them. The subsequent assertion by the Respondents of a need for those same premises, particularly after substantial consideration had changed hands, may raise a question as to whether the eviction proceedings were an attempt to resile from the settlement. The subject premises were put to an *inter se* bidding process to determine which party would use and occupy them. Although that process did not confer ownership rights, the consideration paid for the use and occupation of the premises cannot be disregarded. Having assented to the process through which the Petitioner acquired the right to use and occupy the premises, the Respondents later resorted to the DRC Act on the basis of an alleged *bona fide* requirement. In light of the parties' prolonged and bitter contest, it is relevant to consider whether the Respondents had not evaluated their need for the premises before agreeing to put their use and occupation to bidding. The circumstances leading to the bidding process, and the parties' state of mind, may

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therefore have a bearing on the dispute and require determination at trial.

76. The Impugned Order also reflects that it proceeds on the basis that the fact that the Respondents had surrendered their earlier business accommodation pursuant to the settlement did not disentitle them from seeking eviction, and that the Petitioner had taken the risk inherent in acquiring tenancy rights. In the considered opinion of this Court, such an approach does not fully address the statutory enquiry under Section 25-B(5) of the DRC Act. The fact that the Respondents were not legally precluded from instituting the Eviction Petition does not answer whether the circumstances preceding its institution raise a triable issue as to the *bona fide* nature of the requirement pleaded therein.

77. Nor can the observation that the Petitioner had taken a risk while acquiring tenancy rights, by itself, answer the defence raised by him. The risk undertaken by a tenant in acquiring tenancy rights and the statutory entitlement of a landlord to seek eviction on the ground of *bona fide* requirement are distinct matters. The former does not dispense with the landlord's obligation to satisfy the requirements of Section 14(1)(e) of the DRC Act.

78. This distinction is particularly significant because the pleaded requirement of the Respondents was founded on circumstances arising from the settlement. Their case, in substance, was that, after the settlement and the consequent handing over of premises, they were left without reasonably suitable commercial accommodation and therefore required the subject premises for their business. The circumstances relied upon to establish the requirement were thus

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closely connected with the settlement that preceded the institution of the Eviction Petition.

79. In these circumstances, whether the Respondents had voluntarily altered their position pursuant to the settlement and thereby created the alleged shortage of accommodation, and whether that circumstance affected the *bona fide* nature of their requirement, could not appropriately be decided on affidavits alone.

80. This Court is conscious that a landlord cannot be compelled to remain without accommodation merely because an earlier arrangement affected the landlord's property or business. Equally, the statutory requirement of *bona fide* need cannot be reduced to an assertion that the landlord presently has insufficient accommodation. The circumstances in which that insufficiency arose may, in an appropriate case, be relevant to assessing *bona fides*.

81. Among the other things, the prolonged litigation between the parties, the subsequent settlement and bidding process, the substantial consideration involved, the handing over of possession on 28.08.2008, the absence of any substantial intervening change pleaded by the Respondents, and the institution of the Eviction Petition on 05.12.2008 form a chain of circumstances that would require consideration.

82. At the cost of repetition, in the opinion of this Court, this approach overlooks the distinction between proving a defence and raising a triable issue. The error is apparent from the manner in which the learned RC dealt with the question of *bona fide* requirement. Although the learned RC recognised that such a requirement must be genuine and pressing, rather than fanciful, it principally accepted the assertion of the Respondents that they had no place from which to

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carry on their business. The learned RC then rejected the challenge raised by the Petitioner on the basis that the law did not require a landlord to remain idle.

83. The question, however, was not whether the Respondents were required to sit idle. The question was whether, in the peculiar factual setting of the present case, the requirement projected by them, when tested against the chronology and circumstances preceding the filing of the Eviction Petition, raised a genuine triable issue. That question required consideration of the Petitioner's defence as a whole and not merely rejection of its individual components.

84. The Hon'ble Supreme Court in ***Inderjeet Kaur*** (supra) has cautioned against precisely such an approach. The Apex Court observed that at the stage of leave to defend, rival affidavits may not furnish incontrovertible evidence enabling the Court to reach a final conclusion, and that where a triable issue is raised, the tenant ought to be given an opportunity to test the assertions of the landlord through evidence and cross-examination.

85. The same principle was emphasised in ***Charan Dass Duggal*** (supra), where the Hon'ble Supreme Court held that a summary procedure does not authorise the Rent Controller to undertake a full-fledged adjudication of disputed questions and that the possibility that the defence may ultimately fail is not a ground for refusing leave where a triable issue has otherwise been raised.

86. The present case also cannot be viewed as one where the defence raised by the Petitioner was merely a bald assertion. The Petitioner placed before the learned RC, *inter alia*, the settlement proceedings, the bidding arrangement, the subsequent handing over of possession, the substantial consideration involved and the proximity

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between such handing over and the institution of the Eviction Petition. They formed part of the Petitioner's defence before the learned RC itself.

87. The inquiry contemplated by the DRC Act is that of a *bonafide* requirement, meaning thereby, a lack of or absence of *malafides*. The circumstances appurtenant to the entire sequence of events leading up to the premises being subjected to a bidding process and the close proximity of the date when the eviction petition came to be filed, and the baggage of the litigation history would be necessary to be examined to negate the possibility of any *malafides,* in this case, an examination as to whether the Petition was not wielded as a means to negate or effectively resile from the express settlement arrived at as between the parties. The learned RC has, however, not ventured anywhere near this threshold, and instead chosen to lean heavily on the Judgment of the learned Division Bench to hold that, in view of the same, the full force of the presumption of *bonafide requirement* as otherwise available under the DRC Act was extendable in the present case as well. This, in the view of the Court, is where the fundamental flaw in the Judgment lies.

88. The error committed by the learned RC becomes clearer when the finding regarding alternative accommodation is also considered, as noted earlier. The Petitioner had specifically referred to various properties allegedly available with the Respondents, including property No. 1303, Katra Dhulia, Chandni Chowk, and other properties at Bhamashah Road, Rana Pratap Bagh and Model Town. The learned RC rejected these objections substantially on the ground that the Petitioner had not produced sufficient documentary material

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to establish that the said properties were available and suitable for the commercial requirement pleaded by the Respondents.

89. This Court is not, at this stage, recording a final finding that the properties referred to by the Petitioner constitute reasonably suitable alternative accommodation. Nor is this Court recording a final finding that the Respondents' requirement is *mala fide*. Such questions must appropriately be determined after the parties have had an opportunity to lead evidence.

90. The limited conclusion which this Court is required to reach is whether the defence disclosed by the Petitioner is sufficient to warrant such adjudication. Tested on that anvil, the defence raised by the Petitioner cannot be characterised as frivolous, vexatious or a mere moonshine. The defence rests upon a specific and identifiable factual chronology and raises a substantive question concerning the circumstances in which the alleged paucity of accommodation arose and the consequent *bona fide* nature of the requirement projected by the Respondents.

91. The learned RC, therefore, fell into error in effectively treating the leave-to-defend stage as an occasion for conclusively determining whether the Petitioner's defence would ultimately succeed.

92. The revisional jurisdiction of this Court under the proviso to Section 25-B(8) of the DRC Act is undoubtedly limited. This Court is not sitting as a first appellate Court and would ordinarily not substitute its own assessment of facts for that of the learned RC. However, where the statutory test governing the grant of leave to defend has itself not been correctly applied, and the decision proceeds upon an erroneous approach to the nature of the enquiry contemplated under Section 25-B(5), interference in revision is warranted.

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93. The present case is not, therefore, one where this Court is merely substituting its view on the sufficiency of the evidence for that of the learned RC. The interference is necessitated by the fact that material circumstances bearing directly upon the *bona fide* nature of the requirement were considered from the perspective of whether the Petitioner had already established his defence, rather than whether the circumstances disclosed a triable issue requiring adjudication.

CONCLUSION:

94. In the considered view of this Court, the cumulative effect of the circumstances noticed hereinabove is sufficient to hold that the Petitioner has disclosed facts which, if established, could have a material bearing on the Respondents' entitlement to an order of eviction under Section 14(1)(e) of the DRC Act. The Petitioner was, therefore, entitled to an opportunity to contest the Eviction Petition.

95. Consequently, the application seeking leave to defend filed by the Petitioner could not have been dismissed at the threshold. The Impugned Order, insofar as it rejects the said application and consequently directs the eviction of the Petitioner, therefore, cannot be sustained.

96. The Impugned Order passed by the learned RC in the Eviction Petition is, accordingly, set aside. The application seeking leave to defend filed by the Petitioner is allowed, and all consequential directions or orders flowing from the Impugned Order are also set aside. The Petitioner shall be entitled to contest the Eviction Petition in accordance with law.

97. It is clarified that the scope of examination in the present proceedings was confined to determining whether, on the facts and

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material available on record, the Petitioner was entitled to leave to defend the Eviction Petition. This Court has answered the said question in the affirmative. However, no final opinion is expressed on the merits of the rival claims, including the *bona fide* requirement of the Respondents, the availability or suitability of alternative accommodation, or the effect of the settlement, except to the extent already determined by the Division Bench in EFA (OS) Nos. 23-24/2010. All such issues shall be considered by the learned RC independently and in accordance with law, after affording the parties an opportunity to lead evidence.

98. The learned RC shall proceed with the Eviction Petition from the stage at which the Impugned Order was passed, treating the Petitioner's application for leave to defend as having been allowed, and shall proceed thereafter in accordance with law.

99. Given that the Eviction Petition has been pending for a decade, the learned RC is requested to take this fact into account and accordingly endeavour to adjudicate the same with reasonable dispatch.

100. The present Petition is, accordingly, allowed in the above terms.

101. Pending application(s), if any, also stand disposed of.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 27, 2026/jk

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