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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 30th January, 2026**Pronounced on: 28th April, 2026*

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RC.REV. 192/2023 & CM APPL. 36212/2023

DEVENDER KUMAR

.....Petitioner

Through: Mr. Manish Vashisht, Senior Advocate with Mr. P.K. Rawal, Mr. Tarun Agarwal, Mr. Rishabh Sharma, Mr. S, Singhal and Mr. Akhil Singh, Advocates.

versus

SMT. BABITA JAIN

.....Respondent

Through: Mr. Arun Birbal, Advocate.

CORAM:**HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present rent revision (civil) petition has been filed seeking the following prayers: -

“In view of above, it is therefore most respectfully prayed that this Hon’ble Court may be pleased to:-

a) accept the present revision petition,

b) summon the record of the Ld. Trial Court in the case titled as Smt. Babita Jain Versus Shri Devender Kumar vide Eviction Petition vide CIS



No.223/2019 CNR No.DLCT03-002256-2019 titled as “Smt. Babita Jain Versus Shri Devender Kumar,

c) peruse the same and be further pleased to SET-ASIDE/ QUASH the impugned order dated 05.01.2023 passed in the case titled as Smt. Babita Jain Versus Shri Devender Kumar vide Eviction Petition vide CIS No.223/2019 CNR No.DLCT03-002256-2019, thereby allowing the leave to defend application filed by the petitioner herein, in the interest of justice.

d) Pass any such other or further order and/or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The present Revision Petition has been filed by the petitioner-tenant seeking to set aside impugned order dated 05.01.2023 passed by learned CCJ-cum-ARC (Central), Tis Hazari Court, Delhi, in CIS No.223/19 *qua* the premises at Shop No.4, Ground Floor of Property bearing No.43, Gandhi Gali, Fatehpuri, Delhi-110006 (hereinafter referred to as “demised premises”).

3. By way of the impugned order, the learned ARC had dismissed the application seeking leave to defend filed by the petitioner/tenant in the eviction petition filed on behalf of the respondent.

4. In the eviction petition filed on behalf of the respondent, it was stated that, she is the owner/Landlord of the demised premises which was purchased by her *vide* duly registered sale deed in the Office of Sub Registrar, Delhi, on 09.05.1989, and the petitioner is her tenant and there is relationship of landlord – tenant between the parties. The petitioner was inducted as a tenant



in the demised premises about 25 years ago on a monthly rent of ₹600/- excluding other charges. The petitioner paid rent till 31.12.2014, and thereafter, he stopped paying rent to the respondent for his ulterior motives and was in huge arrears of rent since January 2015. It is further stated that respondent is a homemaker, and her family comprises of her husband, Dinesh Kumar Jain, and two sons, namely, Siddharth Jain and Arihant Jain, and herself. The elder son, Siddharth Jain, is married and residing separately in a rented accommodation due to temperamental differences between his wife and other family members, including the respondent. The respondent has been residing along with her husband and younger son-Arihant Jain, in property, RU-89, First Floor, Near Power House, Pitampura, Delhi – 110088. It is further stated that the husband of the respondent and elder son are jobless and without any business/work. The younger son has been running his business of dry fruits in a small shop, Shop No.1 in the same property under the name and style of M/s Guru Adi Nath Trading Co., as a proprietor. However, due to acrimony between the other family members and wife of elder son, her husband and elder son-Siddharth could not join the aforesaid dry fruits business of younger son-Arihant Jain. It is further stated that even otherwise, husband and elder son of the respondent want to start their separate independent business of dry fruits in their respective shops, and therefore, the subject eviction petition was filed.

5. It was further stated that the respondent is the owner of only two properties. First property situated at RU-89, First Floor, Near Power House, Pitampura, Delhi – 110088, is a residential flat, and the same is being used as



residence by the respondent, her husband, and younger son, Arihant Jain. Second property is situated at Property No.43, Gandhi Gali (*Gandi Gali*), Fatehpuri, Delhi-110006, and the same is occupied by old tenants except Private Shop No.1 on ground floor, which is being used by younger son for his dry fruits business. It was further stated that occupation of the old tenants in various portions of the property has been shown in the site plan annexed with eviction petition, and no shop/space is vacant in the said property to fulfil the requirement of the respondent.

6. It is further stated that the respondent has got no reasonable, suitable alternative accommodation to provide the commercial space/accommodation to her husband, and her elder son to start their own respective business of dry fruits, and therefore, the demised premises are required *bonafidely* by the respondent for the use/business by her elder son, who is dependent upon her for the purpose of commercial space/accommodation. It is further stated that, respondent's husband is also jobless/without any business, and he is also dependent upon the respondent for the purpose of commercial space/accommodation and the respondent intends to file a separate eviction petition against the tenant of Private Shop No.6, Ground Floor, Property No.43, Gandhi Gali (*Gandi Gali*), Fatehpuri, Delhi, 110006.

7. In the application seeking leave to defend filed on behalf of the petitioner, it was stated that the respondent had intentionally and deliberately concealed material facts from the Court inasmuch as the building No.43, Gandhi Gali (*Gandi Gali*), Fatehpuri, Delhi, 110006, is a five-storey building



and the respondent has not filed the correct site plan. It was pointed out that at least six shops in the said building were lying vacant as shop Nos.43/3 & 43/5 on the ground floor, two shops on the first floor (adjacent to the stairs), and two shops on the second floor are lying vacant in the same building, and the third and fourth floor of the said building consisting of shops which were also with the respondent were lying vacant. Photographs of the vacant shops lying in the said property were marked in green colour in the site plan attached with the application seeking leave to defend. It was further stated that the respondent had intentionally and deliberately not filed any document to show that her elder son, Siddharth, and her husband, Dinesh Kumar, are dependent on her for their need of commercial accommodation, or that they are unemployed for any other reasons. It was the case of the petitioner that to the best of his knowledge elder son-Siddharth Jain of the respondent was doing a job and getting handsome salary in a multinational company for whom a *bonafide* requirement is being tried to be made out in the subject eviction proceedings. The petitioner had recently got to know that the respondent, in past, had let out other commercial space in the same building to other tenant at exorbitant rent, and details of the same were also provided in the leave to defend application. In these circumstances, it was further the case of the petitioner that neither the elder son nor the husband of respondent were dependent on her for their commercial needs, or financial requirements, and nor the demised premises were required for their *bonafide* need. It was further pointed out that the respondent had filed a similar petition for eviction on the same ground against the other tenant, who was occupying Shop No.6 on the ground floor in the same property.



8. It was further the case of the petitioner that elder son of the respondent, Siddharth Jain, is married and has been living separately from the respondent, and the same shows that he is neither dependent upon the respondent for his needs for commercial accommodation, nor his financial requirements. It was further the case of the petitioner that wife of Siddharth Jain is also working in the same office as is her husband. It was further stated that the petitioner is occupying only one shop on the ground floor of the subject property, and the rest of the property on the ground floor as well as other floors was in possession of the respondent, and no cogent reason whatsoever has been pleaded to show as to how and in what manner, the husband and elder son of the respondent would need and use the demised premises on the same being vacated. It is further the case of the petitioner that at the time when tenancy was created, he had deposited a security amount of ₹4,50,000 with the respondent on the condition that the tenancy will not be terminated. It is further the case of the petitioner that he has been regularly paying the rent as also the increased rent from time to time in accordance with law, and the subject eviction petition has been filed *malafidely* with ulterior motives to pressurise and harass the petitioner for further increase of rent. It was further stated that the petitioner has regularly paid rent till 31.12.2018. The petitioner is carrying out his business activity from the demised premises and the same is only source of bread and butter for his family, and besides the said premises he has no other shop from where he could earn his livelihood. It is further the case of the petitioner that elder son and husband of the respondent are gainfully employed, and it has been falsely alleged that they are dependent



upon the respondent. It is further pointed out that it is admitted case of the respondent that her elder son is married and living separately and nothing has been disclosed in the eviction petition regarding his job or business, he was carrying till the filing of eviction petition. It is further stated that the husband of the respondent was doing business along with their younger son, and the respondent has not disclosed source of income of her husband. It was, lastly, stated that the petitioners through his hard-working long-standing in the business has earned a good reputation and the subject petition is not *bonafide* at all, and the petitioner has been able to raise triable issues, and therefore, be granted leave to defend the eviction petition filed by the respondent.

9. Learned Senior Counsel appearing on behalf of the petitioner has made the following submissions: -

a) Learned ARC failed to consider that the financial status of respondent's husband and properties owned by him were not disclosed. It was also not disclosed by the respondent as to whether her husband own any immovable property at all or not. The respondent alleged in the eviction petition that all the various shops/portions situated in the subject property are under occupation of other old tenants; however, site plan was conspicuously silent regarding the same. It is submitted that the site plan provided that the subject property consisted of 18 shops, *i.e.*, 6 shops, on the ground floor, and remaining shops on the first and second floor.



b) Respondent had deliberately not disclosed in the eviction petition that other portion of the subject property, *i.e.*, shop Nos.3 and 5, were in power and possession of her family members and herself, despite being well aware of the same. Further, the counter site plan placed on record by the petitioner-tenant was not considered by learned ARC.

c) Petitioner has placed on record photographs of shop Nos.3 & 5 to demonstrate that the said shops in the subject property were lying closed. It is further the case of the petitioner that respondent, in reply to leave to defend application, had admitted that the shutters of the said shops were lying closed and said shops are in a dilapidated condition as they have not been in use for last more than 20 to 25 years. Even locks of the said shops were rusted on account of not being operated since long. It is also pointed out that the respondent along with reply to leave to defend application had placed on record two rent receipts dated 01.04.2001 and 01.01.2003 reflecting the name of Avinash Bagga and Prem Arora as tenants respectively, in respect of shop Nos.3 and 5 situated in the subject property. It is pointed out that there is a time gap of approximately two (2) years in these rents receipts. Further, learned ARC has not dealt with the contention raised on behalf of the petitioner that the said shops are lying vacant and were in possession of the respondent and has simply concluded that respondent has explained the status of said shops including all such shops.



d) The elder son, Siddharth Jain, of the respondent is working in a multinational company as a software engineer and is married and residing separately as also drawing handsome salary. It is further the case of the petitioner that elder son of the respondent is serving as Apollo Graph QL server.

e) It is submitted that the *bonafide* requirement should be in *praesenti*, and in the present case, respondent's son is working in a MNC as also earning handsome salary. Further, respondent had several vacant shops in her possession and this fact was not disclosed in the eviction petition.

f) Nothing was placed on record to show that respondent's elder son, Siddharth Jain, and her husband are dependent on her for their need of commercial accommodation or that they are unemployed for any other reasons. It is pointed out that it was not the case of the respondent that she is supporting her son financially. No Income Tax Return of respondent's son was placed on record by respondent in support of her case or to show that her elder son and his wife (her daughter-in-law) are not working and sitting idle as stated in the eviction petition. It is pointed out that the respondent, in reply to leave to defend application, has not denied the averment made by the petitioner that the wife of elder son, Siddharth Jain, of the respondent is also working in the same office as is her husband (respondent's elder son).



g) Petitioner got to know that the respondent in recent past had let-out other commercial space in the same building to other tenants at exorbitant rent which was also not disclosed by the respondent in her petition.

h) It is the case of the petitioner that husband of the respondent owns adjacent property No.42, Gandhi Gali, Fatehpuri, Delhi, which is a five-storey building comprising of same number of shops as is the subject property.

i) At the time of creation of tenancy, the petitioner had deposited a security of ₹4,50,000 with the respondent with the condition that his tenancy will not be terminated.

10. Reliance has also been placed on following judgments by learned Senior Counsel in support of petitioner's case: -

i) On **Deepak Gupta v. Sushma Aggarwal**¹, to contend that at the stage of leave to defend application the likelihood of success or the failure of the defence is not really determinative of the question as to grant or non-grant of the leave to defend, but the real question is tenability of the plea which may raise suspicion on the need of the landlord, which may be, if proved, can also lead to disentitlement to

¹ (2013) 202 DLT 121



the recovery of possession. Further, the Controller cannot record findings on disputed question of facts by preferring the one set of facts over and above the other, and merits of the pleas raised are not to be called into at the time of the grant of leave to defend by going into complicated questions of fact. Reliance has also been placed on this judgment to contend that if plea of alternative accommodation has been raised, then it was for the respondent to show the document to prove that she has no alternative accommodation and not the petitioner as initial onus to satisfy the criteria as per Section 14(1)(e) is on landlord and not on the tenant.

- ii) On **Najmul Arafeen Chawla v. Dr. Mohd. Najeeb**², to contend that at the stage of leave to defend, the tenant need not establish a full proof case fit for rejection of the petition for eviction in totality. The grounds raised in leave to defend must also not be mere assertions, and must raise a triable issue such that gives rise to a necessity for it to be tested at trial for a proper and just adjudication. Any material doubt raised by the tenant in respect of *bonafide* requirement and alternate accommodation become triable in nature, warranting grant of leave to defend in favour of the tenant.
- iii) On **Sudesh Kumar Bansal v. Ajay Saini**³, to contend that in said case, respondents-landlord had not disclosed the entire

² (2025) 318 DLT 631

³ (2019) 264 DLT 290



accommodation and were not able to *prima facie* show that no portion of the property at Sarai Rohilla was available, and learned Coordinate Bench while setting aside the impugned order therein, held that whether the property situated at Sarai Rohilla is available or not, or is more suitable or plea of the petitioner/tenant that there is no need and scarcity, as is artificially created by letting of portions for commercial use immediately prior to the filing of eviction petition, required consideration by Rent Controller and are matters requiring trial.

- iv) On **B.R. Anand v. Prem Sagar**⁴, to contend that in a case, where the facts explained by the tenant disclose the triable case for grant of leave to defend, it is not proper for the Rent Controller to prejudge any issue and opportunity must be granted to the tenant to prove its case once a triable issue has been raised.
- v) On **Jagdish Lal Khorana v. Hemant Arora & Ors.**⁵, to contend that the plea that sons of the landlord are independently settled in their businesses and undisputedly, not living with the landlord but away from the family is required to be tested as to whether they are dependent upon the landlord for accommodation or not. It is further required to be tested as to whether they really and genuinely

⁴ (2001) 93 DLT 370

⁵ 2012 SCC OnLine Del 6057



intended to start business and all these aspects would be required to be evaluated, examined, and indicated by the Controller.

11. In view of the aforesaid submissions, learned Senior Counsel for the petitioner submitted that the respondent is not entitled to any relief and the impugned order dated 05.01.2023 is to be set aside, and the petitioner be granted leave to defend the eviction proceedings instituted by the respondent against him.

12. *Per contra*, learned counsel for the respondent, while refuting the contentions raised on behalf of the petitioner, has made the following submissions: -

a) Respondent is a housewife and her family consist of her husband, her two sons and herself. It is further submitted that she requires three shops for her husband, younger son, and elder son separately for their respective purposes. Elder son of the respondent, Siddharth Jain, is married and residing separately in a rented accommodation on account of temperamental differences between his wife and other family members, including respondent. Husband of the respondent and elder son are jobless and are without any work/business, and both of them wish to start their business as they could not join the business of dry fruits run by younger son owing to acrimonious relationship between wife of elder son and other family members.



b) Respondent, in response to the leave to defend application filed on behalf of the petitioner, had unequivocally denied that she had intentionally and deliberately not filed any document to show that her elder son and her husband are dependent on her for their need of commercial accommodation or that they are unemployed for any other reasons as alleged by the petitioner. It was further denied that her elder son is doing a job and drawing a handsome salary in a multinational company, and it was stated that said allegations are totally false and frivolous. It was submitted that the allegations with respect to alleged job of elder son are totally false, weak, and the petitioner had made such allegations solely to mislead the Court. It is further the case of respondent that she has denied the fact that wife of elder son is also working in the same office as is her husband as alleged by the petitioner, and it is submitted that such allegations are not only false and frivolous, but also general and vague in nature.

c) Regarding the possession of shop Nos.3 & 5, it is submitted that there is nothing on record to show that respondent was in possession of the said shops. Respondent has placed on record rent receipts issued in the name of Avinash Bagga and Prem Arora with respect to said shops to show that the same are in possession of said tenants. It is submitted that shop No.3 is in possession of Avinash Bagga and he has not been using the same for last many years, and is also in huge arrears of rent. Further, the photographs of the said shop placed on record would show



that same is lying in a dilapidated condition due to non-use. It is further submitted that the said shop is in possession of the aforesaid tenants and are not available with the respondent. It is further submitted that shop No.5 is in possession of tenant, Prem Arora, and said tenant has not been using the shop for last many years and his shop is also lying in a dilapidated condition and is not in possession of the respondent.

d) Learned counsel for the respondent has handed up in Court, during the course of hearing, a copy of leave to defend application filed in case, **E-222/19**, titled as “Babita Jain versus Naveen Kumar” to show that similar ground with respect to aforesaid shops being vacant and locked by the respondent was taken by the respondent in the said case; however, leave to defend application in the said case was dismissed by learned ARC *vide* order dated 07.01.2023. It is pointed out that learned Coordinate Bench of this Court in **RC.REV.168/2023**, while dealing with a challenge against the said order found that the same does not require any interference, and time was given to the tenant therein to handover vacant and peaceful possession of the premises to the respondent herein. The said leave to defend application as well as the orders annexed therewith are taken on record.

e) It is submitted that the respondent had denied that the petitioner had earned good long-standing reputation and wants to oust the petitioner from the tenanted premises to give the same on rent to other business rivals of the petitioner. It was further denied that business of



younger son of the respondent is one of the reasons for filing of subject eviction petition.

f) It is the case of the respondent that the petitioner is having an alternative commercial accommodation with him, and it is most unreasonable on his part by occupying the tenanted premises to deprive the family of the respondent from using the same for their own *bonafide* requirement. It is submitted that other premises which are in occupation of the petitioner are situated at building No.1064, Ground Floor, *Gandhi Gali*, Fatehpuri, Delhi, and the petitioner has got a registration certificate Form GST REG-06 in his name for the trade name of 'SHRI MAHADEV TRADING CO.' as a proprietor of said proprietorship concern at the aforesaid address. It is further submitted that the petitioner had not disclosed the availability of alternate accommodation with him in his leave to defend application.

13. *In rejoinder*, learned Senior Counsel for the petitioner has submitted that shop No.3 are in possession of the respondent and she has intentionally not using the same for creating a false ground of *bonafide* requirement as no document or reasonable cause has been pleaded by her as to why no action has been taken by her against the said tenant till today, if she is genuinely in need of a commercial space on *bonafide* grounds. Similar contention has also been raised with respect to shop No.5 and the alleged tenant in the said shop. Attention of this Court has also been drawn towards the rent receipts of the tenants of shop Nos.3 and 5 to contend that the pattern and the serial numbers



of the said receipts does not chronologically correspond to the dates on which same were issued. It is further the case of the petitioner that the rent receipts placed on record with respect to shop Nos.3 and 5 have been created subsequently by the respondent to lend support to her case.

ANALYSIS AND FINDINGS

14. Heard learned Senior Counsel for the petitioner as well as learned counsel for the respondent and perused the records.

15. Learned ARC *vide* impugned order dated 05.01.2023, while dealing with the contentions raised on behalf of the parties with respect to *bonafide* requirement and alternate suitable accommodation, had observed as under: -

“17. The *bonafide* need projected in the present petition is that petitioner's son Sh. Siddharth Jain is unemployed and requires the tenanted premises *bonafide* for starting his business from the tenanted premises. Respondent has questioned the *bonafide* need of the petitioner on the ground that petitioner has failed to disclose since when her son Sh. Siddharth Jain has been jobless and dependent upon her for the purpose of commercial space/ accommodation. It is also alleged by the respondent that petitioner's son is employed in a multi-national company and he is earning handsome salary. It is also averred that admittedly there are temperamental differences between son of the petitioner and the petitioner due to which he is living separately and therefore, the alleged need of the petitioner is not *bonafide*.

18. Petitioners have denied the averments of the respondent in her reply to leave to defend application. The respondent has not filed any document to show that petitioner's son is employed or having



sufficient income. Accordingly, the plea of the respondent stated that Sh. Siddharth Jain (petitioner's son) is working in a multinational company is found to be a self-serving averment. As regards non-disclosure on the part of petitioner as to when the son of petitioner became unemployed and how he was managing his day to day needs till date is concerned, the same is immaterial since the *bonafide* need has to be seen in presenti. It is not necessary for the petitioner to disclose what his son was doing in the past or what was his previous employment and from where he was managing funds. Even assuming that son of the petitioner is/was working in an MNC and having a good salary, it does not foreclose his right to start his own independent business. The averment of the respondent that petitioner's son is not dependent upon her for accommodation or that he has handsome earning is merely a bald averment, which cannot be said to raise any triable issue qua the *bonafide* need of petitioner.

19. It is contended on behalf of respondent that on account of temperamental differences, Sh. Siddharth Jain is living separately from the petitioner which shows that petitioner and her son are not on good terms and therefore, the petitioner does not have any liability towards him. It is noteworthy that in the eviction petition, it is stated that Sh. Siddharth Jain is married and living separately due to temperamental differences between his wife and other family members including the petitioner. It is not the case of the petitioner that she has disowned her son. Merely because Sh. Siddharth Jain is living separately or independently, it does not lead to an inference that the petitioner has severed all the relationship with her son and has no moral or social responsibility towards him and it certainly does not mean he cannot be dependent upon his mother for commercial accommodation. The respondent has failed to show any material which can create a doubt on such a *bonafide* need of the petitioner and therefore, there is no reason for this Court to doubt the *bonafide* need portrayed by the petitioner.

Alternative Accommodation:

20. On the aspect of availability of suitable alternative accommodation, petitioner has stated in the petition that she does not have any alternate accommodation to satisfy the *bonafide* need



for commercial space. However, the respondent has alleged that the petitioner has numerous vacant shops on different floors in property no. 43 where tenanted premises is situated. The same are dealt herein below:

Ground floor of property no. 43, Gandhi Gali, Fatehpuri, Delhi.

21. The respondent alleged that shops no.3 and 5 on the ground floor are lying vacant in the same building. It is also averred that one shop on the ground floor i.e. shop no. 2, has been recently let out by the petitioner to the same tenant i.e. M/s Pragya/Prasu Trading Company at a monthly rent of Rs. 15,000/-. The photographs of the said vacant shops are filed.

22. In reply to leave to defend application, the petitioner stated that :-

- a. Shop no. 1 is used by son of the petitioner namely Arihant Jain for running his business.
- b. Shop no. 2 has been sold by the petitioner to Sh. Prashant Mahapatra by virtue of registered sale deed dated 19.08.2011. She has filed copy of registered sale deed along with the reply.
- c. Shop no. 3 is in possession of old tenant Sh. Avinash Bagga but he has not been using the shop for the last several years and is also in huge arrears of rent. Rent receipt dated 01.04.2001 has been placed on record.
- d. Shop no. 4 is the suit property.
- e. Shop no. 5 is in possession of old tenant Sh. Prem Arora but he has also not been using the shop for the last several years and is also in huge arrears of rent. Rent receipt dated 01.01.2003 has been placed on record.
- f. Shop no. 6 is in possession of old tenant Sh. Naveen Kumar against whom eviction petition for bona fide requirement of elder son of the petitioner has been filed.



First floor of property no. 43, Gandhi Gali, Fatehpuri, Delhi

23. Respondent alleged that two shops on the first floor (adjacent to the Stairs) are lying vacant and one shop on the first floor was let out by the petitioner to someone 5-6 months back at a monthly rent of Rs. 12,000/-approx.

24. In reply to leave to defend application, the petitioner stated that:-

a. Shop no. 7 and Shop No. 8 have been sold to Prashant Mahapatra by virtue of same deeds dated 19.07.2006. She has filed copy of registered sale deeds along with the reply.

b. Shop no. 9 has been sold to Satender Singh by virtue of registered sale deed dated 22.07.2015. She has filed copy of registered sale deed along with the reply.

c. Shop no. 10 has been sold to Nirmala Devi by virtue of registered sale deed dated 11.03.2013. She has filed copy of registered sale deed along with the reply.

d. Shop no. 11 is in possession of old tenant Sh. Kuldeep Kumar. Rent receipt has been placed on record.

Second floor of property no. 43, Gandhi Gali, Fatehpuri, Delhi.

25. Respondent stated that two shops on the second floor are lying vacant in the same building.

26. In reply to leave to defend application, the petitioner stated that:-

a. Shop no. 12 and 13 are in possession of old tenant Sh. Dharmendra Tomar. Rent receipts have been placed on record.



b. Shop no. 14 has been sold to Sh. Yogesh Kumar Sharma by virtue of registered sale deed dated 19.02.2018. She has filed copy of registered sale deed along with the reply.

c. Shop no. 15 is occupied by old tenant namely M/s Anoop Singh Hari Singh. Copy of rent receipt has been filed along with the reply.

d. Shop no. 16 has been sold to Sh. Yogesh Kumar Sharma by virtue of registered sale deed dated 24.08.2016. She has filed copy of registered sale deed along with the reply.

Third floor and fourth floor of property no. 43, Gandhi Gali, Fatehpuri, Delhi.

27. The respondent alleged that the third floor and fourth floor of the said building are also consisting of shops which are lying vacant.

28. In response, the petitioner has stated that the hall and the room on the third floor is in possession of tenant Sh. Prashant Mahapatra. Copy of rent receipt has been filed along with the reply. As regards fourth floor, the petitioner averred that the same is in possession of servant of the Sh Arihant Jain.

29. Thus, the petitioner has explained the status of all such shops. He has clarified with the documents that except the suit shop, there is no other alternative suitable shop available with the petitioner for the stated need as the stated shops/portions of the building where the tenanted premises is situated have been either let out or sold by the petitioner.

30. The respondent has failed to make any averment raising any contradiction or shortcoming in the averments and claim of the petitioner. Apart from photographs, the respondent has also not filed any cogent material to contradict the averments and documents filed by the petitioner. As far as four photographs of certain shops in the building are concerned, the same does not show that they are in possession of the petitioner. The petitioner has filed rent receipts as well as sale deeds to show that except the suit shop,



all have been occupied by other persons. The respondent has not brought any material on record that old tenants have been evicted from the said shops. Also, the respondent cannot dictate the petitioner to proceed against those tenants who are not paying rent and not using the shops.

31. As regards the fourth floor i.e. open terrace and a hall shown in the site plan of the respondent, it is stated to be lying vacant and deliberately not shown by the petitioner in the site plan. In response, the petitioner has not disputed that there is a fourth floor in the building but alleged that it is in possession of servant of Arihant Jain, son of the petitioner. The said averment of the petitioner is a bald averment as name and other particulars of the alleged servant have not been mentioned anywhere.

32. Be that as it may. Even if the fourth floor is considered to be lying vacant, respondent cannot command the petitioner to utilize the fourth floor for the stated need, It is trite that the landlord is the best judge of his own interest and he cannot be dictated by the tenants. There is no doubt that the ground floor is more suitable and profitable for business activity than the fourth floor. Therefore, it cannot be said that fourth floor is equally suitable alternative accommodation.

33. The respondent also stated that petitioner and her husband Dinesh Kumar Jain also own the adjacent commercial property no.42, Gandhi Gali, Fatehpuri, Delhi which is also a five-storey building and consisting of same number of shops as in the property no.43, Gandhi Gali, Fatehpuri, Delhi. Some of the shops are being given on rent by the husband of the petitioner and he is collecting rent from the tenants and approximately seven shops are still lying vacant in the said building also. There is no separate entry to the said property no.42 and both the properties i.e. 42 and 43, Gandhi Gali, Fatehpuri, Delhi have common passage and are being used for some purpose.

34. The petitioner averred that neither the petitioner nor her husband has any concern with property no.42, Gandhi Gali, Fatehpuri, Delhi. The petitioner has filed copy of sale deed the said property which shows that neither the petitioner nor her husband is



the owner thereof. The respondent has not filed any document to substantiate his plea. Mere mentioning of alternate accommodation is not enough, as the said accommodation has to be available and equally suitable to the landlord to fulfil his need. The respondent has not been able to raise any triable issue thereby dis-entitling the petitioner from seeking his eviction from the tenanted premises.”

16. Learned Senior Counsel for the petitioner has strenuously argued that the respondent had not disclosed anything with respect to shop Nos.43/3 & 43/5 adjacent to the demised premises which were in power and possession of her family members and herself. It is further submitted that the said fact was not disclosed by the respondent in the subject eviction petition, and the same was addressed to by the respondent only in reply to leave to defend application. Attention of this Court has been drawn towards rent receipts dated 01.04.2001 and 01.01.2003 issued by the respondent in the name of two tenants namely, Avinash Bagga, and Prem Arora respectively, against the aforesaid shop Nos.43/3 & 43/5. It has been contended that the said rent receipts were created subsequently and placed on record by the respondent, only after the petitioner took this ground in his application seeking leave to defend. It is further the case of the petitioner that the dates on which said receipts were issued, and serial numbers of the said receipts do not chronologically correspond with each other. Attention of this Court was drawn to the rent receipt placed on record by the respondent, and it was argued that receipt issued to Avinash Bagga in respect of Shop No.43/3 is dated 01.04.2001 and the serial number of the said receipt is shown as ‘031’. However, rent receipt issued to Prem Arora in respect of Shop No.43/5 is dated 01.01.2003, and the serial number of the said receipt is shown as ‘033’.



It was argued that the receipt issued to Avinash Bagga on 01.04.2001 (for the period 01.01.2001 to 21.12.2001) was having serial number '031', and the receipt issued to Prem Arora dated 01.01.2003 (for the period 01.01.2002 to 31.12.2002) was having as serial number 33, and the timeline is unbelievable to the extent that after serial No.31, the next receipt of serial No.33 is issued after a gap of two years.

17. It is further submitted that the learned ARC had not dealt with the aforesaid contentions in the impugned order and has erred in allowing the eviction petition filed on behalf of the respondent, as the petitioner had raised a triable issue with respect to the subject eviction petition.

18. On the other hand, learned counsel for the respondent has contended that besides bald statements, neither any material has been placed on record nor any averment has been made by the petitioner to show that the said shop Nos.43/3 & 43/5 were in possession of the respondent. It is submitted that the said shops are in possession of aforesaid tenants in the name of whom the aforesaid rent receipts have been issued. It is pointed out that no objection was taken by the petitioner with respect to the aforesaid discrepancies before learned ARC.

19. Perusal of the record shows that the petitioner had placed on record along with leave to defend application before learned ARC photocopies of the rent receipts dated 02.09.1994, 02.08.2002, 03.05.2010, and 04.10.2010 issued to him by the respondent-landlord. It is pertinent to note that rent



receipts placed on record by the petitioner have the following dates and serial numbers: -

Dates	Serial Nos.	Period
02.09.1994	Serial No.174	02.09.1994 to 31.12.1994
02.08.2002	Serial No. 313	01.07.2002 to 31.12.2002
03.05.2010	Serial No. 29	01.01.2010 to 30.06.2010
07.10.2010	Serial No. 34	01.07.2010 to 31.12.2010

20. On closure scrutiny, these rent receipts are of random year and months. Serial numbers of these receipts are also different. For instance, serial number of receipt dated 02.08.2002 is shown as 313; however, the next receipt placed on record is dated 03.05.2010, and its serial number is 29. The contention of learned Senior Counsel for the petitioner that the dates on which rent receipts in favour of other tenants-Avinash Bagga and Prem Arora were issued, and serial numbers of the said receipts do not correspond chronology, and is, thus, a triable issue, is bereft of merit. Even the rent receipts placed on record by the petitioner along with leave to defend application are of random dates and have not been issued with chronological serial numbers. Thus, in these circumstances, the contention of the petitioner that the rent receipts issued by the respondent in the name of two tenants namely, Avinash Bagga, and Prem Arora respectively, against the aforesaid shop Nos.43/3 & 43/5 were created subsequently, and solely to create false ground for evicting him from the demised premises, and is, therefore, a triable issue, is not tenable. It is further



pertinent to note that in the eviction petition, the respondent-landlord had stated as under: -

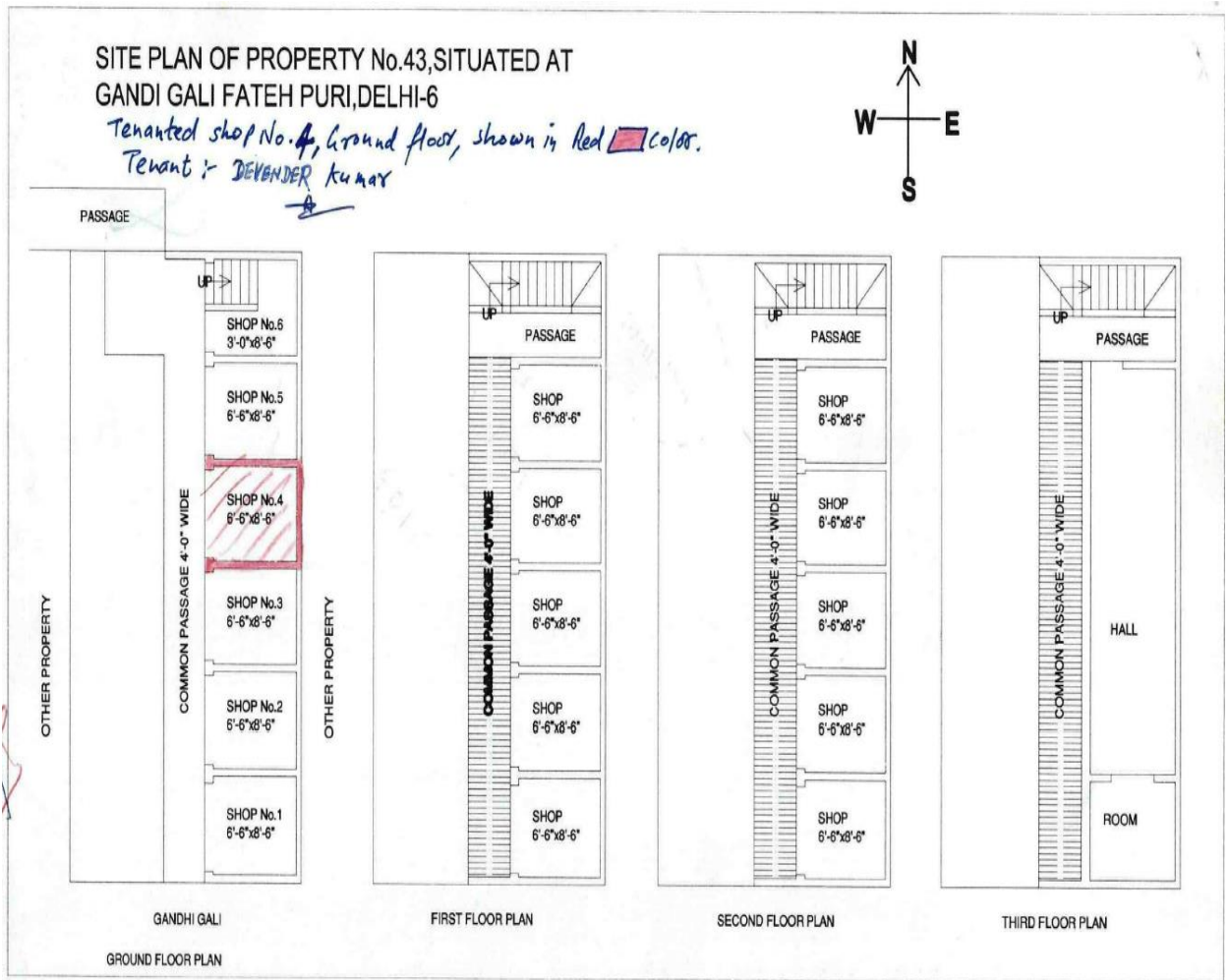
“6. That the petitioner is the owner of only two properties i.e.

(i) RU-89, First Floor, Near Power House, Pitampura, Delhi-110088 which is a residential flat/property being used as residence by the petitioner, her husband and younger son Arihant Jain;

(ii) Property No. 43, Gandhi Gali (Gandi Gali), Fatehpuri, Delhi-110006, however, the same is occupied by the old tenants except Private Shop No.1 on ground floor which is being used by the younger son of the petitioner namely Sh. Arihant Jain for his business. The occupation of the old tenants in various portions of this property has been shown in the site plan attached. No shop/space is vacant at the disposal of the petitioner in this property.”

(emphasis supplied)

20.1. Correspondingly, the site plan placed on record by the respondent along with her eviction petition is as under: -



20.2. Thus, the respondent has clearly disclosed shop Nos. 43/3 and 43/5 in the eviction petition claiming that same were occupied by old tenants, and therefore, were not available with her for the purpose of their *bonafide* requirement. It is only when after the said stand of availability of the said shops was taken by the petitioner in his leave to defend the aforesaid rent receipts were produced. Thus, the contention of the learned Senior Counsel that the said discrepancy is a triable issue is not tenable.



20.3. In addition to above, photographs of the said shops were also placed on record by the petitioner to show that same were lying vacant, and the shutter were down, showing that said shops are closed. As noted by the learned ARC, that itself cannot be a ground to disbelieve the version of the respondent/landlord that said shops are not in her physical possession and are not lying vacant.

21. During the course of arguments, learned Senior Counsel also submitted that the respondent, in the reply to leave to defend, had admitted that the wife of the respondent's elder son-Siddharth Jain for whom the *bonafide* requirement has been shown, was working in the same office as her husband-Siddharth Jain. However, learned counsel for the respondent drew the attention of this Court to the following averments made in the reply to the leave to defend application filed on behalf of the respondent-landlord, while denying the aforesaid stand of the petitioner: -

“3(vi) That the contents of para no.3(vi) of the application are wrong, incorrect and hence specifically denied. It is specifically denied that the son of the petitioner Sh. Siddharth Jain is neither dependent upon the petitioner for his needs for commercial accommodation nor for his financial needs as alleged. It is denied that the wife of Sh. Siddharth Jain is also working in the same office as alleged. It is denied that the present petition deserves to be dismissed on this score alone as alleged. The allegations are not only false and frivolous but the same are also vague and general in nature.”

22. Learned Senior Counsel for the petitioner had also contended that husband of the respondent owns adjacent property No.42, Gandhi Gali,



Fatehpuri, Delhi, which is a five-storey building comprising of same number of shops as in the subject property. However, learned counsel for the respondent had submitted that neither latter nor any of her family members had any concern or connection with the adjoining property No.42, Gandhi Gali (*Gandi Gali*), Fatehpuri, Delhi, and the said property is owned by one Smt. Veena Sharma w/o Sh. Vishnu Dutt Sharma. It was further submitted that no material or document was placed on record by the petitioner to substantiate this contention and same was denied by the respondent in reply filed on her behalf to the leave to defend application filed by the petitioner.

22.1. This contention was dealt by learned ARC in paragraph Nos.33 and 34 of the impugned order, as noted hereinbefore. Learned ARC had observed that the petitioner herein had not filed any document to substantiate his plea, and mere mentioning of alternate accommodation was not enough, and therefore, the petitioner had not been able to raise any triable issue. It was also observed that the respondent had filed copy of the sale deed of the said property to show that neither she nor her husband, as contended, is the owner of the said property No.42. Perusal of the record shows that no document or material has been placed on record by the petitioner to show that the respondent or any of her family members is the owner of the said property. Therefore, learned ARC has rightly concluded that the petitioner has not been able to raise any triable issue thereby, disentitling the respondent from seeking eviction of the petitioner.



23. The judicial precedents relied upon by the learned Senior Counsel for the petitioner are not applicable in the facts of the present case in the following manner: -

- i) In **Deepak Gupta** (*supra*), it is noted that learned ARC in that case had failed to appreciate that the respondent-landlord therein during the pendency of the earlier eviction petition had sold various properties which had not been disclosed by said landlord in the subject eviction petition.
- ii) In **Najmul Arafeen Chawla** (*supra*), again the landlord had filed the subject eviction petition with respect to only ground floor of the subject premises; however, the property comprised of ground and first floors. It was noted that, in the previous proceedings between the parties, the landlord himself had claimed single tenancy of both ground and first floor. Also, the fact of the availability of alternative accommodation where the respondent-landlord's brother was residing was not disclosed in the said eviction petition.
- iii) In **Sudesh Kumar Bansal** (*supra*), learned Coordinate Bench of this Court had observed that the respondent-landlord in the said case had executed a lease deed in favour of other tenants few months before filing of the eviction petition, and thus, the learned Single Judge was of the view that fresh tenancy created in favour of the tenants few months back before filing of the eviction petition was not disclosed in the



eviction petition. Further, the respondents therein had not disclosed the entire accommodation at Sarai Rohilla was available with the landlord.

iv) In **Jagdish Lal Khorana** (*supra*), the learned Single Judge was dealing with the case where the learned ARC had granted leave to defend, and it was observed that if the averments made in the affidavit in leave to defend demonstrate such facts which would disentitle the landlord from recovering the possession, that by itself makes obligatory upon the Controller to grant leave to defend to the tenant.

v) In **B.R. Anand** (*supra*), learned Single Judge was dealing as to whether a bonafide case was made by the landlord-respondent with respect to averment that, “at present he together with his wife and son are living with his mother in her own property, and said property was not spacious enough for four adult members to reside therein.” In said circumstances, it was observed that in cases of paucity of accommodation, there is strong likelihood of relations being strained even amongst close relatives and such questions could be resolved only after parties are permitted to lead evidence, and Rent Controller could not be satisfied on the question of *bonafide* of the landlord at that stage of the *lis*. In the present case, the case of the respondent is that her husband and elder son are jobless, and without any business/work and want to start their separate independent business of dry fruits in their respective shops.



24. The Hon'ble Supreme Court in **Abid-Ul-Islam v. Inder Sain Dua**⁶, with respect to requirement under Section 14(1)(e) of the DRCA, had observed and held as under: -

“Requirement under Section 14(1)(e)

18. For availing the leave to defend as envisaged under Section 25-B(5), a mere assertion per se would not suffice as Section 14(1)(e) creates a presumption subject to the satisfaction of the learned Rent Controller qua bona fide need in favour of the landlord which is obviously rebuttable with some material of substance to the extent of raising a triable issue. The satisfaction of the Rent Controller in deciding on an application seeking leave to defend is obviously subjective. The degree of probability is one of preponderance forming the subjective satisfaction of the Rent Controller. Thus, the quality of adjudication is between a mere moonshine and adequate material and evidence meant for the rejection of a normal application for eviction.

19. Before a presumption is drawn, the landlord is duty-bound to place prima facie material supported by the adequate averments. It is only thereafter, the presumption gets attracted and the onus shifts on the tenant. The object of Section 14(1)(e) vis-à-vis Section 25-B has to be seen in the light of yet another provision contained under Section 19. Section 19 gives a right to the dispossessed tenant for repossession if there is a non-compliance on the part of the landlord albeit after eviction, to put the premises to use for the intended purpose. Such a right is available only to a tenant who stood dispossessed on the application filed by the landlord invoking Section 14(1)(e) being allowed. Thus, Section 19 inter alia throws more light on the legislative objective facilitating a speedy possession. The object is also reflected in the proviso to Section 25-B(8), denying a right of appeal.

⁶ (2022) 6 SCC 30 : (2022) 3 SCC (Civ) 287 : 2022 SCC OnLine SC 419



20. Dealing with a pari materia provision, this Court in Baldev Singh Bajwa v. Monish Saini [Baldev Singh Bajwa v. Monish Saini, (2005) 12 SCC 778] , was pleased to clarify the aforesaid position holding the procedure as summary. **In such a case, the tenant is expected to put in adequate and reasonable materials in support of the facts pleaded in the form of a declaration sufficient to raise a triable issue.** One cannot lose sight of the object behind Section 25-B in facilitating not only the expeditious but effective remedy for a class of landlords, sans the normal procedural route. In this regard, we wish to quote the decision of this Court in Baldev Singh [Baldev Singh Bajwa v. Monish Saini, (2005) 12 SCC 778] : (SCC pp. 790-93, paras 14-17 & 19)

19. ... In our view there are inbuilt protections in the relevant provisions for the tenants that whenever the landlord would approach the court he would approach when his need is genuine and bona fide. It is, of course, subject to the tenant's right to rebut it but with strong and cogent evidence. In our view, in the proceeding taken up under Section 13-B by the NRI landlords for the ejection of the tenant, the court shall presume that the landlord's need pleaded in the petition is genuine and bona fide. But this would not disentitle the tenant from proving that in fact and in law the requirement of the landlord is not genuine. **A heavy burden would lie on the tenant to prove that the requirement of the landlord is not genuine. To prove this fact the tenant will be called upon to give all the necessary facts and particulars supported by documentary evidence, if available, to support his plea in the affidavit itself so that the Controller will be in a position to adjudicate and decide the question of genuine or bona fide requirement of the landlord. A mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in the landlord's favour that his requirement of occupation of the premises is real and genuine.”**

(emphasis supplied)

25. The powers of this Court under Section 25-B(8) of the Act are not as wide as those of Appellate Court, and in case, it is found that the impugned orders are according to law and do not suffer from any jurisdictional error,



this Court must refrain from interfering with the same. The power under this provision is limited and supervisory in nature. Only when, it is evident that the Rent Controller has committed grave illegality or came to a conclusion which was not possible, based on the material produced, should this Court interfere in the order passed by the Rent Controller. In **Sarla Ahuja v. United India Insurance Co. Ltd.**⁷, the Hon'ble Supreme Court had observed and held as under: -

“8. The satisfaction of the High Court when perusing the records of the case must be confined to the limited sphere that the order of the Rent Controller is “according to the law.” In other words, the High Court shall scrutinize the records to ascertain whether any illegality has been committed by the Rent Controller in passing the order under Section 25B. It is not permissible for the High Court in that exercise to come to a different fact finding unless the finding arrived at by the Rent Controller on the facts is so unreasonable that no Rent Controller should have reached such a finding on the materials available.”

26. The Hon'ble Supreme Court in **Abid-Ul-Islam v. Inder Sain Dua (supra)**⁸, with respect to scope of revision under DRCA, had observed and held as under: -

“Scope of revision

22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It

⁷ (1998) 8 SCC 119: AIR 1999 SC 100

⁸ (2022) 6 SCC 30 : (2022) 3 SCC (Civ) 287 : 2022 SCC OnLine SC 419



is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.

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.”

27. The jurisdiction of the present petition is confined to examining whether the impugned order suffers from any error apparent on the face of the record. The Revisional Court cannot reappraise evidence or substitute its own view, unless the impugned order is shown to be arbitrary, perverse, or vitiated by material impropriety. In the absence of such infirmities, there remains narrow scope for interference with the impugned order.

28. In view of the aforesaid facts and circumstances of the present case, no interference with the impugned order dated 05.01.2023 passed by learned CCJ-cum-ARC, Central District, Tis Hazari Courts, Delhi, in CIS No.223/2019 is called for, and the same is accordingly upheld.

29. The present petition is dismissed and disposed of.



30. Pending applications, if any, also stand disposed of accordingly.
31. Interim order dated 24.07.2023 stands vacated.
32. Copy of the judgment be sent to the concerned learned Execution Court/learned CCJ-cum-ARC, Central District, Tis Hazari Courts, Delhi, for necessary information and compliance.
33. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA
(JUDGE)**

APRIL 28, 2026/nk/ns