



2026:DHC:4460



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 25th February, 2026

Pronounced on: 19th May, 2026

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RC.REV. 30/2019

SMT. DURGA DEVI JAIN

....Petitioner

Through: Mr. Kamal Mehta, Mr. Mohnish
Singh, Advocates.

versus

DR HARISH CHANDER BANGA

.....Respondent

Through: Mr. Rohit Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Section 25 (8) of the Delhi Rent Control Act, 1958¹ seeks the following prayers: -

“In view of the aforesaid facts and circumstances, it is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to: -

(a) Summon/ call for the records of the Ld. Trial Court of Sh. Sachin Sangwan, ARC, South District, Saket Courts, New Delhi, in RC No. 6212 of 2016, titled as Smt. Durga Devi Jain versus Dr. Harish Chander Banga, decided vide judgment dated 25.09.2018, and after perusing the same;

(b) set aside the impugned judgment dated 25.09.2018 by the Ld. Trial

¹ DRC Act



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Court of Sh. Sachin Sangwan, ARC, South District, Saket Courts, New Delhi, whereby the Ld. Trial Court was pleased to dismiss the petition filed by the petitioner; and

Such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case be also passed in favour of petitioner and against respondent to meet the ends of justice.”

2. The present petition assails the judgment dated 25.09.2018² passed in RC ARC No. 6212/2016³ by the learned ACJ cum CCJ cum ARC, South District, Saket Courts, New Delhi⁴, whereby the eviction petition under Section 14(1)(e) of the DRC Acts preferred by the present Petitioner against the present Respondent, was dismissed.

3. The Petitioner in her eviction petition had stated that she is the owner/landlady of the property bearing No. 90, Hari Nagar Ashram, New Delhi⁵, and on the ground floor of the said property, one shop admeasuring 20 ft. x 20 ft.⁶ was let out in favour of the Respondent, *vide* a lease deed in the year 1985, for a period of 11 months and at the time of filing the eviction petition, the rent for the tenanted premises was INR 1,925/- per month, excluding other charges. It was stated that the Respondent is a doctor by profession, and he was running his clinic from the tenanted premises, and subsequently he had further sub-let a portion of the tenanted premises, in favour of M/s Lal Pathlabs, without the written consent, knowledge or

² Impugned Judgment

³ Eviction Petition/Eviction Proceedings

⁴ Learned ARC

⁵ Subject Premises/Property No. 90

⁶ Tenanted Premises



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permission of the Petitioner and M/s Lal Pathlabs was carrying on its business from the tenanted premises. It was stated that the Respondent did not require the tenanted premises as he occasionally opened his clinic, and most of the times, the same was being opened by M/s Lal Pathlabs.

4. Subsequently, an amended eviction petition was filed by the Petitioner, wherein it was stated that the tenanted premises were *bona fide* required by the Petitioner for herself and her grandson, *i.e.*, Mr. Rishab Jain, who was unemployed and he wanted to start his own business of diamonds and jewellery from the tenanted premises, as the same was situated at a prime location and there was no other suitable commercial accommodation available in Delhi or outside Delhi in her grandson's name. The Petitioner further stated that her family is also the owner of another property bearing No. 87, Hari Nagar Ashram, New Delhi⁷, and in the said property the family of the Petitioner was residing, and since the said property was not in a good condition, the family of the Petitioner had to shift to Jangpura Extension, in December, 2016.

5. It was the case of the Respondent that when the tenanted premises were let out to him, he was assured that he shall never be disturbed and he could set up his permanent medical practice from the tenanted premises. The Respondent further stated that Mr. Rishabh Jain is not the real grandson of the Petitioner, as he is the son of Mr. Praveen Jain, who is the son of Sh. Ram

⁷ Property No. 87



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Kumar Jain (Petitioner's husband) and his other wife Smt. Kanta Devi. It was further stated that Mr. Rishabh Jain intended to pursue Chartered Accountancy and even if Mr. Rishabh Jain intended to start his own jewellery business, there existed ample space and opportunity with him, as his family members were already running jewellery business from Bhogal, New Delhi. It was further stated that there existed ample space with the Petitioner in the form of commercial premises at Hari Nagar Ashram itself, as Smt. Kanta Devi was the owner of property No. 87, where several shops were lying vacant. It was stated that the Petitioner had not disclosed that the entire second floor of the subject premises, *i.e.*, property No. 90 had been sold by the Petitioner to M/s Sona Steel Work. It was further stated that the Petitioner had suppressed the fact that she was also the owner of ground floor and basement of property No. 88, Hari Nagar Ashram⁸.

6. Thereafter, the leave to defend was allowed by the learned ARC and evidence was led by both the parties and the impugned judgment was passed by, thereby dismissing the eviction petition filed by the Petitioner.

SUBMISSIONS ON BEHALF OF THE PETITIONER

7. At the outset, learned counsel for the Petitioner submitted that the husband of the Petitioner had two wives, namely, the Petitioner herself and Smt. Kanta Devi, who also happened to be the real sister of the Petitioner, and

⁸ Property No. 88



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admittedly, the entire family of the Petitioner, *i.e.*, her husband, Smt. Kanta Devi, two sons, namely, Mr. Praveen Kumar and Mr. Vimal Jain, along with their wives and children, were all residing under one roof. The said fact was admitted by the Respondent in his cross-examination dated 04.07.2018, and thus, the entire unit was one family, and the accommodation of any member of the family could be made available for the *bona fide* need of the grandchildren. The relevant portion of the said cross-examination is reproduced as under: -

“It is correct that petitioner, her husband, his second wife and all of the children reside together as a joint family.”

8. It was further argued that the DRC Act does not define the term “family”. It was submitted that the Hon’ble Supreme Court and this Court, in various judgments, had held that in context of DRC Act, family of the landlord would comprise of all those members of a family who stay under one roof, including step sons, step grandsons, etc., and for the purposes of DRC Act, a relative staying under the same roof may also be considered to be a part of the family of the landlord. In support of this contention, reliance was placed upon the following judgments: -

- i. K.V. Muthu v. Angamuthu Ammal⁹;
- ii. Gobind Das v. Kuldip Singh¹⁰;
- iii. Manju Devi v. Pratap Singh¹¹.

⁹ 1996 (9) SCALE 375, Para(s) 32, 33

¹⁰ 1971 AIR (Del) 151, Para(s) 7, 8

¹¹ 2015 SCC OnLine Del 7516, Para(s) 11



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9. Learned counsel for the Petitioner further submitted that since the Respondent had admitted in his cross examination dated 04.07.2018 that the entire family of the Petitioner was residing under one roof, and in view of the law laid down by the Hon'ble Supreme Court and this Court that the same would be construed as a joint family, the tenanted premises could be made available for the *bona fide* need of her grandson, and the only caveat being that the properties held in the name of other family members of the Petitioner were not suitable for the *bona fide* need of Mr. Rishabh Jain. In this context, reliance was placed upon the judgment passed by the learned Single Judge of this Court in **Shyam Bihari Singh v. Sushila Devi**¹², and particularly on the following paragraph: -

“11. It was then contended that the very fact that one of the rooms could be spared for a shop would mean that the landlady had sufficient residential accommodation available with her. Merely because the chemist shop was opened in a room, which was previously being used for residential purposes, would not, by itself, prove or show that the landlady had sufficient residential accommodation. It may be necessary, as in this case, that the son of the landlady must start earning a livelihood. In order to do so the landlady had sacrificed her comforts and altered the use of the room. The use was altered because of necessity. For reasons beyond the landlady's control it became necessary that one of the residential rooms should be used for a shop. It may be that the accommodation which remained with the landlady may still be sufficient and adequate for residential premises but the mere fact that a room was converted into a shop would not, by itself, prove that the accommodation that remained with the landlady was sufficient.”

¹² 1982 (21) DLT 35



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10. With respect to availability of the shops situated in Bhogal, it was stated by the Petitioner that the same had been disclosed, and that one of the shops was occupied by the father of Mr. Rishabh Jain for carrying on his own gold business. *Qua* another shop in Bhogal market, from where business was done in the name and style of “*Silver House*” by the other son of the Petitioner, namely Mr. Vimal Jain, it was stated that the same had also been disclosed, and it had been clearly stated that the said shop was occupied by the second son of the Petitioner. It was further submitted that the said shops in Bhogal Market were not suitable for the *bona fide* need of Mr. Rishabh Jain, as it had been clearly stated in the eviction petition that the latter intended to start an independent business as a diamond merchant, and thus, Mr. Rishabh Jain could not be expected to share the same either with his father or his uncle, from where they were already running their respective jewellery businesses.

11. With respect to availability of property No. 87, Hari Nagar Ashram, it was submitted that the same was held in the name of Smt. Kanta Devi, *i.e.*, the other grandmother of Mr. Rishabh Jain, and the said property was not suitable for the *bona fide* need of Mr. Rishabh Jain, and even if it is presumed that the said property was available, Mr. Rishabh Jain cannot be compelled to satisfy his need from the said shops. It was further submitted that the tenanted premises was a building open from two sides and was located on the main Mathura Road, Ashram, New Delhi. It was stated that the property No. 87 was situated in a narrow lane, adjacent to the tenanted premises and the said



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property consisted of six shops and faced a local shopping complex, where a vegetable market was set up every evening, and thus, the said property was not suitable for the *bona fide* need of Mr. Rishabh Jain, as a sophisticated business such as a diamond showroom could not be run from shops facing a vegetable market, and the tenanted premises, in comparison to property No. 87, being situated on the main road, was much better suited for the *bona fide* need of Mr. Rishabh Jain, as the tenanted premises would have better footfall, apart from having adequate parking space available

12. It was further submitted that a landlord is free to choose a property from where he intends to carry on the business, and a tenant could not object to it. It was further submitted that the availability of other alternate accommodations was to be considered in the hand of the Petitioner, who had filed an eviction petition. To support the same, reliance was placed on the judgment of this Court in **Satish Kumar & Anr. v. Kanwar Raj Singh**¹³, and particularly on the following paragraph: -

“8. Qua contention a) the petitioners have alleged the respondent has an alternative accommodation at 2729- 31, Gali Pattewali, Naya Bazar, Delhi-110006 and in support thereof has placed a photograph at page No.257 of the paperbook showing an office of M/s. Solan Shimla Transport Company Private Limited in the said shop. The respondent explains in his reply to the application for leave to defend that from the said shop his son is carrying transport business, however it is not suitable as it lies in a narrow lane/gali and even the vehicles of his son cannot enter or be parked in the small lane/gali and are rather parked in front of this very subject property. Even otherwise, per settled law it is an owner who has to

¹³ 2020 (4) AD (Delhi) 517



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take a call to decide as to which of his shop(s) is most suitable for his business. A tenant cannot dictate his own terms to the landlord. If the respondent says shop at property viz 2729-31, Gali Pattewali, Naya Bazar, Delhi-110006 is not suitable for his purpose, the petitioners cannot dictate their terms upon him and ask him to forget about the tenanted shop, hence, contention a) is rejected. Even otherwise, the concept of alternative accommodation as to which property is the most suitable for the landlord has to be seen from the point of view of the landlord. The tenant cannot dictate the landlord as to how and in what manner landlord should use his own property. (See *Viran Wali vs Kuldeep Rai Kochhar* 174 (2010) DLT 328).”

13. Learned counsel for the Petitioner, in furtherance of the aforesaid, had placed reliance upon the following judgment(s): -

- i. Ram Prasad Singh v. Mukand Lal¹⁴;
- ii. Har Lal Gupta v. Anil Aggarwal¹⁵;
- iii. Shri Babu Ram Gupta v. Shri Chander Prakash¹⁶;
- iv. Madhu Sudan Kakkar v. Jawahar Lal¹⁷.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

14. *Per contra*, it was submitted by the learned counsel for the Respondent that the Petitioner had nowhere revealed the fact of Smt. Kanta Devi being the wife of Sh. Ram Kumar Jain in the entire eviction petition, and that the said fact had been mentioned only in the present petition. It was further argued that

¹⁴ 1952 O AIR (P&H) 189, paragraph 5

¹⁵ 2021 LAWPACK (Del) 86206, paragraph 4, 8

¹⁶ 2023 (298) DLT 586, paragraph 18, 19, 20

¹⁷ 2017 (238) DLT 515, paragraph 25



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it was the Respondent who had brought the said fact on record, along with the fact that Mr. Praveen Jain was not the son of the Petitioner, but of Smt. Kanta Devi.

15. Learned counsel for the Respondent had further submitted that the findings of the learned ARC in the impugned judgment were based on careful perusal, consideration and analysis of the entire pleadings and the evidence placed on record. It was submitted that the Petitioner had wrongly mentioned that the eviction petition was filed through her General Power of Attorney, *i.e.*, her elder son namely Mr. Praveen Jain; however, a perusal of the record would reflect that the eviction petition was filed by the Petitioner and thereafter, the amended eviction petition was filed through Mr. Praveen Jain.

16. Attention of this Court was further drawn to the impugned judgment to contend that the learned ARC had categorically dealt with the issue of Mr. Praveen Jain being the son of Smt. Kanta Jain and it was further submitted that the learned ARC had further observed that the Petitioner had failed to prove that Mr. Praveen Jain was the son of the Petitioner, and consequently, Mr. Rishabh Jain was the step grandson of the Petitioner.

17. It was further submitted that the Petitioner had sought an additional amendment to the eviction petition, whereby the alleged *bona fide* requirement had been changed from being for Mr. Rishabh Jain, to being for her granddaughter; however, the same had been withdrawn subsequently by the Petitioner. It was argued that such conduct on the part of the Petitioner, in



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repeatedly changing the alleged *bona fide* requirement, clearly demonstrated a lack of consistency and genuineness, thereby rendering the present *bona fide* requirement a mere sham.

18. Learned counsel for the Respondent had further drawn attention of this Court to the cross examination dated 20.09.2016 of Mr. Praveen Jain, to contend that it was put to the latter that he was not the biological son of the Petitioner, but of Smt. Kanta Jain. The relevant portion of the said cross examination is reproduced as under: -

“Cross examination of PW-1, i.e., Mr. Praveen Jain dated 20.09.2016

...It is wrong to suggest that I am not the biological son of petitioner. It is further wrong to suggest that I am biological son of Smt. Kanta Devi Jain. Vol. My father Shri Ram Kumar Jain firstly married Smt. Kanta Devi Jain and later on he married Smt. Durga Devi Jain. It is correct that in the case filed by Smt. Kanta Devi against Smt. Meera Banwari, she had given me a Power of Attorney and mentioned in the same as being her son. It is also correct that subsequently during the pendency of present eviction petition, in the eviction petition filed by Smt. Kanta Devi Jain against Shri Subhash Chand Jain, she had appointed me as an attorney, being her son.”

It was submitted that Mr. Praveen Jain had admitted that Smt. Kanta Devi had filed another eviction petition against one Smt. Meera Banwari, and had executed a Power of Attorney in his favour for filing the said petition, wherein he had been described as her son. It was further submitted that, even during the pendency of the present eviction proceedings, Smt. Kanta Devi had filed another eviction petition against Sh. Subhash Chand Jain, and in the said petition as well, she had appointed Mr. Praveen Jain as her attorney,



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describing him as her son. The same had also been admitted by the Petitioner in her cross-examination dated 03.03.2016, and the same is reproduced as under: -

“Cross examination of PW-2, i.e., Smt. Durga Devi Jain dated 03.03.2016

It is incorrect to suggest that I am also falsely stated that Sh. Parveen Jain is my son. It is correct that Smt. Kanta Jain had stated in her eviction petitions against post office, Smt. Meera Banwari and Sh. Subhash Chand that Sh. Parveen was her son and she required premises for her sons and their families inclusive of Sh. Vimal Kumar.”

19. It was further submitted that the Petitioner had suppressed the alternate properties available with her, as well as those available with Smt. Kanta Jain, namely, properties bearing Nos. 87 and 88, and that the same had been brought on record by the Respondent. Attention of this Court was drawn to the cross-examination of the Petitioner, dated 16.07.2014, and particularly to the following portion(s): -

“Cross examination of PW-2, i.e., Smt. Durga Devi Jain dated 16.07.2014

...It incorrect that I am the owner of the ground floor and basement of property bearing no. 88, Hari Nagar Ashram, New Delhi. The ground floor has two shops. One shop has been sold by me to M/s Bhardwaj Chemist but I do not remember the year. One shop and basement is still with me. It is correct that in property bearing no. 87, Hari Nagar, Ashram, New Delhi, there were seven shops. One shop was got vacated by Smt. Kanta Jain from the postal department and was merged in the residential portion. It is correct that the shop that was got vacated by Smt. Kanta Jain from Ms. Meera Banwari is with us. Our goods are lying there. The shop adjacent to the shop Ms. Meera



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Banwari has been let out to one Dr. Devender Jain. The two shops adjacent to the clinic of Dr. Jain are in possession of our relative.

20. It was further submitted that during the course of trial, the Petitioner had amended the eviction petition and the Respondent had been granted an opportunity to cross examine the Petitioner and Mr. Praveen Jain. It was further submitted that property No. 87, in the meantime, had been demolished and reconstructed. Attention of this Court was further drawn to the cross examination of Mr. Praveen Jain, dated 06.02.2018, to contend that he had refused to answer questions *qua* the property No. 87 and the same had been observed by the learned ARC as well. It was further stated that Mr. Praveen Jain in the said cross examination had admitted that the said property had been reconstructed and it had five floors and it was further admitted that the ground floor of the said property was commercial in nature, having shops and open space. The relevant portion of the said cross examination is reproduced as under: -

“Cross examination of PW-1, i.e., Mr. Praveen Jain dated 06.02.2018

I am presently residing at B-Block, Jungpura for about last one year and three months. It is correct that property No.87 has been reconstructed after demolition of the entire property. It is correct that there are five floors. (Vol. There is basement and four other floors in property No.87 alongwith stilt parking.) It is wrong to suggest that there no stilt parking and there is regular ground floor beside four other floors.

At this stage, witness is shown photograph of property No.87 by the counsel for respondent and asked to identify the stilt parking. After



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seeing the photograph, witness has identified the place where stilt parking is situated. The said place is now point A (encircled), the photograph is now Ex.PW1/R1. (Vol. I do not have concern with property No.87 as on date since my brother looks after the same).

I do not know that the place where the shutters are seen (encircled) in the photograph, are shops or not. I have not filed any photograph or site plan of property No.87 after its re-construction. (Vol. I do not have any concern with the property No.87)

Court Observation: Witness has all of a sudden started refusing to give answers qua Property No.87 which initially he was giving.

It is correct that prior to reconstruction, there was shops on the ground floor in Property No.87 which had been let out to various tenants. It is correct that reconstruction was made after tenants were evicted from the property. (Vol. Some of them were evicted and some of them voluntarily left the property). I am not aware whether none of the earlier tenants were re-allocated shops in property No.87 after its re construction. I also do not know if the shops at the ground floor are lying vacant.

I do not know whether the entire property No.87. is commercial or not after its re-construction. I go to Ashram almost daily for various purposes but I do not go to property No.87.

It is correct that I cross the shop/clinic of respondent when I enter the lane from Ashram. I have not noticed whether there are two big shops in property No.87. (Vol. I cross the lane on car and do not look side ways while driving).”

It was further submitted that Mr. Praveen Jain, had further deposed in the said cross examination that his brother, Mr. Vimal Jain, would be able to explain the situation *qua* property No. 87; however, Mr. Vimal Jain was not produced before the learned ARC to explain the same. Reliance was placed on the following portion(s) of the said cross examination: -



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“...My brother Mr. Vimal Jain is in Delhi. He only knows about property No.87 and can tell about the same. (Vol. He knows about the same for last two months)

Court Query: Witness states prior to two months, there were no shops in property No.87, nor there were any shutter gates in the said property.

It is correct that my brother can explain as to the situation at site/property No.87 presently.”

21. Learned counsel for the Respondent had further submitted that the arguments of the Petitioner that being a joint family, any member of the family could seek accommodation for another member of the family, and the learned ARC had failed to appreciate that the Petitioner could seek eviction for Mr. Rishabh Jain as her stepson, are untenable. It was submitted that even if it is presumed that any member of the joint family could seek eviction for the need of another member, then the accommodation available with the joint family would also have to be considered when the question of availability of alternate accommodation is being dealt with. Attention of this Court was drawn to the cross examination of Mr. Praveen Jain, dated 20.09.2016, to submit that the latter had admitted that the properties of both, Smt. Kanta Devi and the Petitioner, were available to the family for use, and thus, while asserting the jointness of the family, the Petitioner cannot on the other hand allege that the properties available to the family cannot be considered. The relevant portion(s) of the said cross examination is reproduced as under: -

“Cross examination of PW-1, i.e., Mr. Praveen Jain dated 20.09.2016

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KUMARI SHARMA RC.REV. 30/2019
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It is correct that my father Shri Ram Kumar Jain, Smt. Kanta Devi and Smt. Durga Devi, myself, my wife and children as well as my youngest brother Shri Vimal Jain, his wife and children all reside together. It is also correct that the shops / properties belonging to Smt. Kanta Devi Jain as well as Smt. Durga Devi Jain are available to the entire family for use.”

22. Learned counsel for the Respondent had placed reliance upon the following portion(s) of the impugned judgment to contend that the learned ARC had rightly dealt with the Petitioner’s plea regarding the suitability of the tenanted premises. It was further submitted that the learned ARC had rightly held that Mr. Rishabh Jain could not be said to be dependent upon the Petitioner, when a number of suitable accommodations were available with his real grandmother, *i.e.*, Smt. Kanta Devi. The relevant portion of the impugned judgment is reproduced as under: -

“However, the question is regarding the proving of dependency first and the suitability plea cannot be pressed upon by a family member to prove dependency. For example, if a person is owning a three bedroom house, he cannot say that he is dependent on the head of the family for his residential requirement as said head of family is having a five bedroom house and same is better suited to him as he will have better quality of life in a bigger house. As per section 14(1)(e) of DRC the suitability plea can be raised only by landlord or the person on behalf of whom landlord is collecting the rent, inter se the rented premises and the other properties of landlord or such person. Here, the exact language of section 14(1)(e) has to be reproduced. Section 14(1)(e) of Delhi Rent Control Act, 1958 provides that Controller may make an order for recovery of possession of tenanted premises on the ground (e) "*that the premises let for residential purposes are required bonafide by the landlord for occupation as a residence for **himself or for any member** of his family dependent on him, if he is the owner thereof, or **for any person** for whose benefit the premises are held and that the **landlord or such person** has no other*



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reasonably suitable residential accommodation". As per the judgment of Hon'ble Supreme Court of India in ***Satyawati Sharma v. Union of India 2008(6) SCALE 326*** the words "let for residential purposes" shall be deemed to be omitted and the provision shall apply to non residential premises also.

It is to be noted that the last part of the section 14(1)(e) in regard to non availability of alternative suitable accommodation refers to "landlord or such person" and not "landlord or such member or such person". This omission by legislature is deliberate and has a significant purpose to serve. It means that suitability cannot be of such dependent member between properties available to him of his own or his nearer relations vis a vis the properties of his farther relations i.e. the landlord. Consequently, it implies that dependency has to be absolute and not relative. Resultantly the alleged member of family cannot claim to be dependent on his step grand mother when number of properties are available to him through his real grand mother who is also part of same joint family.

It is not the case of petitioner that real grandmother of Risbah Jain is on bad terms with him and is not ready to give him an inch of her property for use. It is to be noted that admittedly even real uncle of Rishab Jain i.e. Vimal Jain is having commercial property at Bhogal. Further, it is nowhere claimed by petitioner that real grandfather of Rishab Jain i.e. Ram Chander has no commercial property. Therefore, in the given circumstances, the basic fact that Rishab Jain is dependent on her step grand mother i.e. petitioner for his need of commercial property is not proved."

23. Learned counsel for the Respondent, in support of his contentions hereinabove, had placed reliance upon the following judgment(s) :-

i. Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta¹⁸;

¹⁸ (1999) 6 SCC 222



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- ii. Deena Nath v. Pooran Lal¹⁹;
- iii. M.M. Quasim v. Manohar Lal Sharma & Ors.²⁰;
- iv. Bharat Glass and Plywood Co. v. Sushan Pal Soni²¹;
- v. Kanta Gupta v. Goverdhan Dass Daga²².

REJOINDER SUBMISSIONS ON BEHALF OF THE PETITIONER

24. Learned counsel for the Petitioner submitted that mere non-disclosure of property No. 88 in the eviction petition would not render the same non-maintainable. It was further argued by the learned counsel for the Petitioner that the latter had been cross examined by the Respondent with respect to property No. 88. It was further submitted that this Court, in *catena* of judgments, had held that once leave to defend is granted, and if there existed a property which had not been disclosed in the eviction petition, and it was eventually found that such property was not suitable for the *bona fide* need, then mere non-disclosure of the same would not amount to concealment. Reliance was placed on the following judgments and particularly on the following paragraphs: -

1. Vinod Gupta v. Kailash Aggarwal & Ors.²³;

“17. Thus, the landlord being the best person to choose how much space is needed for him/her or his family member dependent upon

¹⁹ (2001) 5 SCC 705;

²⁰ (1981) 3 SCC 36

²¹ 2014 SCC OnLine Del 1232

²² 2024 SCC OnLine Del 902

²³ 2019 (256) DLT 76



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him to start or expand any of his activity, is a sole Judge to decide qua the accommodation he intend to seek eviction for. The concealment of unavailable/unsuitable accommodation is not material and the suitability of accommodation is needed to be judged on the touchstone of the landlord and not of tenant. This Court in revision should be slow to intervene in any such finding of facts by the Additional Rent Controller.”

2. **Banwari Lal (Since Deceased) Thr LRs & Anr. v. Mahender Pal Gupta²⁴;**

“6. Hence there appears to be no concealment since Shops No. 9 and 10 are being used by two sons, namely Tarun and Vineet of the respondent and hence such shops are not available for his 3rd son namely - Gaurav, for whom this petition is filed. Though the petitioner relied upon *G.M. Haryana Roadways v. Jai Bhagwan* (2008) 4 SCC 127; and *Mohammad Illyas v. Nooruddin* (2011) 184 DLT 590, but the said decisions too say the concealment must be of a *material* fact and not otherwise. Hence if Shop No. 9 had fallen vacant, since occupied by his son Tarun, was rightly not available to the respondent herein to settle his 3rd son Gaurav and its non-discloser is *not material*.”

3. **Rajni Bahl (Since Deceased) Thr LRs v. Arun Kumar Nayyar²⁵.**

“11. The learned ARC was of the view that although the respondent did not disclose the above three premises in his eviction petition, no prejudice was caused to the petitioner from the alleged concealment as the respondent managed to prove that none of the aforesaid accommodations could be termed as suitable alternate accommodations.

63. The argument of the petitioner that the respondent has intentionally not disclosed the alternative accommodations is also without merit. The learned ARC has correctly relied upon precedents to hold that non-disclosure of alternate accommodation is not fatal to the eviction proceedings if the case of neither of the parties was prejudiced. The relevant portion of the impugned

²⁴ 2019 (258) DLT 750

²⁵ 2023 (305) DLT 1



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judgment reads as under:

“71. Of course, it is correct that the petitioner did not disclose the availability of above three premises in his eviction petition. However the question is whether any prejudice was caused to respondent from the said alleged concealment. The answer is no, for the reason that the petitioner has managed to prove that none of the aforesaid accommodation can be termed to be suitable alternate accommodation. Moreover the respondent has had an opportunity to fully argue and lead evidence to prove the suitability of those accommodations. Reliance can be placed on judgment of Hon'ble Supreme Court in M.L. Prabhakar v. Rajiv Singhal (2001) 2 SCC 355, wherein qua the plea of concealment/suppression, it was held that the fact that the landlord has another accommodation would not be fatal to the eviction proceedings if both the parties understood the case and placed materials before the Court and case of neither party was prejudiced. Accordingly, it was held that though the landlord in that case had not mentioned about the other premises but the material in respect of the other two premises had come before the Rent Controller as well as before the High Court and no prejudice had been caused and the parties had squarely dealt with the question. Reliance can also be placed on the judgment in Bhairab Chandra Nandan v. Ranadhir Chandra Dutta, (1988) 1 SCC 383.”

65. Hence, I am of the view that the learned ARC has correctly held that the non-disclosure of three alternate premises in the eviction petition did not cause any prejudice to the petitioner as they were not suitable alternate accommodations. The above judgments support the case of the respondent.”

25. Learned counsel for the Petitioner drew attention of this Court to the following portion of the impugned judgment: -

“It is not the case of petitioner that real grandmother of Risbah Jain is on bad terms with him and is not ready to give him an inch of her property for use. It is to be noted that admittedly even real uncle of Rishab Jain i.e. Vimal Jain is having commercial property at Bhogal. Further, it is



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nowhere claimed by petitioner that real grandfather of Rishab Jain i.e. Ram Chander has no commercial property. Therefore, in the given circumstances, the basic fact that Rishab Jain is dependent on her step grand mother i.e. petitioner for his need of commercial property is not proved.”

It was submitted by the learned counsel for the Petitioner that the learned ARC had wrongly observed that the need of Mr. Rishabh Jain for the tenanted premises had not been proved. It was further submitted that the learned ARC had not examined the suitability of the tenanted premises, despite the same being more suitable for the *bona fide* need of Mr. Rishabh Jain, when compared to other properties owned by other family members.

26. Learned counsel for the Petitioner, while refuting the submission of the learned counsel for the Respondent that details of property No. 87 was brought on record by the latter, had submitted that the Petitioner had disclosed the details of the said property in the eviction petition, and the same is reproduced as under: -

“7A. That family of petitioner was residing in the property bearing no. 87 Hari Nagar Ashram, Delhi, which consist of 6 small shops in the area of Subzi Mandi and During the pendency of present petition, the condition of her residence i.e. 87, Hari Nagar Ashram, Delhi was not so good condition and it required major repair or to the extent of reconstruction, so accordingly, petitioner and her family have to shift her residence along with her family members in Jangpura Extension, Delhi somewhere in the month of December 2016. It is relevant to mention here that as mentioned in the petition, there exist 6 small shops in the 87, Hari Nagar Ashram, Delhi, the same shops have also got vacated from 4 tenants in November -December 2016 and required major repair or to the extent of reconstruction.



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7B. That the above-said shops situated in the 87, Hari Nagar Asharm, Delhi are not suitable to the bonafide requirement of petitioner as mentioned in the petition as these are very small in size and not good for sophisticated business as situated in link street/Gali. On the other hand, shop under tenancy of respondent is big in size, situated on main road to Ashram Chowk, where foot fall of customers is more and circumstances are good for business.”

27. Learned counsel for the Petitioner had further submitted that the Respondent in his cross examination dated 04.07.2018 had stated that property No. 87 was situated opposite to a DDA Market, and in the evening, a *Subzi Mandi* was set up in front of the said property. It was thus submitted that the said deposition substantiated the claim of the Petitioner that the said property was not suitable for the *bona fide* need of Mr. Rishabh Jain. The relevant portion of the said cross-examination is reproduced as under: -

“Q. It is put to you that in your affidavit in para no. 15 (page no.6) you have mentioned that the shop in plot no.87 opens towards DDA Market / Sabzi Mandi but today, you are specifying that plot no.87 opens towards DDA Market complex only, just to improve your case. What do you have to say regarding the same?

Ans. My both statements are correct. There is a DDA market complex opposite plot no.87 and in the evening only, a Sabzi. Mandi is organized in front of plot no.87. It is wrong to suggest that I have deposed falsely regarding the said fact and for that reason, I have not specified the same in my affidavit.”

FINDINGS AND ANALYSIS

28. Heard the learned counsels for the parties and perused the records.

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29. It is pertinent to note that *vide* order dated 25.08.2023, the learned Predecessor Bench had passed the following order: -

“1. Learned Counsel for the parties agree that there are two main issues involved in the present Revision Petition.

(i) Firstly, whether the words as appearing in Section 14(1)(e) of the Delhi Rent Control Act, 1958 - “or for any person for whose benefit the premises are held”, includes a step son or a step grandson of a landlord.

(ii) Secondly, whether there was alternate suitable accommodation available to for the step grandson Mr. Risabh Jain.

2. Learned Counsel for the parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least one week before the next date of hearing, along with compilations of judgments, if any, they wish to rely upon.

2.1 All judgments sought to be relied upon by the learned Counsel for the parties shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.

3. List the matter on 02.02.2024 at 03:30 PM.”

30. At this stage, it would be apposite to refer to the following judgments cited at the Bar by learned counsel for the Petitioner, to contend that the expression “*family*” in Section 14(1)(e) of the DRC Act, has a wide ambit and the same would encompass all members of a family, who reside under one roof, including a step son, step grandson, etc.: -

30.1. In **K.V. Muthu** (*supra*), the Hon’ble Supreme Court while examining the issue whether a “foster son” would qualify as a “member of family”



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within the meaning of Section 2(6A) of the Tamil Nadu Buildings (Lease and Ren Control) Act, 1960, had observed and held as under: -

“9. Section 2(6-A) provides as under:

“2. (6-A) ‘member of his family’ in relation to a landlord means his spouse, son, daughter, grandchild or dependant parent.”

10. Apparently, it appears that the definition is conclusive as the word “means” has been used to specify the members, namely, spouse, son, daughter, grandchild or dependant parent, who would constitute the family. Section 2 of the Act in which various terms have been defined, opens with the words “in this Act, unless the context otherwise requires” which indicates that the definitions, as for example, that of “family”, which are indicated to be conclusive may not be treated to be conclusive if it was otherwise required by the context. This implies that a definition, like any other word in a statute, has to be read in the light of the context and scheme of the Act as also the object for which the Act was made by the legislature.

15. There is a consensus among the High Courts in India that the word “family” is a word of great flexibility and is capable of different meanings.

16. In *Ram Pershad Singh v. Mukand Lal* [AIR 1952 Punj 189 : 6 DLR Punj 251] nephews who were brought up by the landlord and were set up in business by him and were also married by him, were held to be members of the family. The Calcutta High Court in *Puspalata Debi v. Dinesh Chandra Das* [85 Cal LJ 74] , in *Syed Shah Moidal Islam v. Commr. of Wakfs* [AIR 1943 Cal 635 : 47 CWN 315] and again in *Sukumar Guha v. Naresh Chandra Ghosh* [AIR 1968 Cal 49] ; the Madras High Court in *Asha Bibi v. Nabissa Sahib* [AIR 1957 Mad 583] ; the Bombay High Court in *Ramubai v. Jiyaram Sharma* [AIR 1964 Bom 96 : 65 Bom LR 647] ; the Delhi High Court in *Govind Dass v. Kuldip Singh* [AIR 1971 Del 151 : 1970 Ren CR 511] and again in *Abdul Hamid v. Nur Mohd.* [AIR 1976 Del 328 : ILR (1976) 2 Del 250] have all held that the word “family” is a flexible word and it may, in certain circumstances, specially in the context in which it is used, may include persons who are not directly related by blood.



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17. This Court in *Corpn. of the City of Nagpur v. Nagpur Handloom Cloth Market Co. Ltd.* [AIR 1963 SC 1192 : 66 Bom LR 116] , while interpreting the word “family” observed as under:

“But the expression ‘family’ has according to the context in which it occurs, a variable connotation. It does not in the setting of the rules postulate the existence of relationship either of blood or by marriage between the persons residing in the tenement. Even a single person may be regarded as a family, and a master and servant would also be so regarded.”

It was further observed as under:

“The expression ‘family’ must therefore take colour from the expression ‘occupy’ used in the same rule. In our view the expression ‘family’ in the context in which it occurs, means no more than a person or a group of persons.”

18. It is in the background of the above discussion relating to the cases decided by various High Courts and this Court that it is to be seen whether a “foster son” would be covered by the word “family” as defined in the Act.

19. “Son” as understood in common parlance means a natural son born to a person after marriage. It is the direct blood relationship which is the essence of the term in which “son” is usually understood, emphasis being on legitimacy. In legal parlance, however, “son” has a little wider connotation. It may include not only the natural son but also son's son, namely, the grandchild, and where the personal law permits adoption, it also includes an adopted son.

20. Section 3(57) of the General Clauses Act defines “son” as under:

“ ‘son’ in the case of anyone whose personal law permits adoption, shall include an adopted son.”

21. Relying upon this definition, the Lahore High Court in *Divi Ditta, In re* [AIR 1931 Lah 661 : ILR 12 Lah 50] held that where the personal law of the parties permits adoption, the word “son” will include an adopted son. In *Adit Narayan Singh v. Mahabir Prasad Tiwari* [(1920-21) 48 IA 86] the



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Privy Council held that “sons” in Mitakshara Chapter II 6(1) include a grandson. In the ancient Hindu Law, twelve sons are mentioned by the truth-seeing sages all of whom need not be mentioned here. The attempt only is to indicate that the term “son” itself is a flexible term and may not be limited to the direct descendant. Its true meaning, like the term “family” discussed above, will depend upon the context in which it is used. Even illegitimate son may be treated as legitimate, as for example, the “son” referred to in Section 16 of the Hindu Marriage Act, as originally enacted.

31. From the above, it would appear that it is not in every case that a son who is not the real son of a person would be treated to be a member of family of that person but would depend upon the facts and circumstances of a particular case.”

(Emphasis supplied)

30.2. Similarly, in **Manju Devi (supra)**, the learned Single Judge of this Court while adjudicating upon a rent revision preferred on behalf of the Petitioner therein (landlord), who had sought eviction of the tenant for *bona fide* requirement of her step-son observed as under: -

“11. It is not the case of the respondent that Vivek Kumar is earning his livelihood by doing some other work. The factum of his education being up to 12th standard and he being aged 23 years at the time of filing of the eviction petition is also not disputed. Learned ARC failed to draw the distinction between dependency for the purposes of residency and the dependency for settling in a vocation for which the commercial premises was required. Merely by living with the maternal grandparents after the death of his mother would Vivek loose the status of being dependent on his father and step-mother for settling him in a vocation is the question which arises for consideration. **Testing the facts of the case on the touchstone of law laid down by the Supreme Court i.e. “whether there is a close interrelation or identity nexus between the landlord and such person so that the requirement of the said person has to be**

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treated as the requirement of the landlord”, it can be safely held that a father/mother including a step father or a step mother will not be absolved of the responsibility to settle their son to earn his livelihood even if he has been staying with his maternal grandparents.”

(Emphasis supplied)

31. In the present case, the Petitioner in her eviction petition had claimed *bona fide* requirement for her grandson, Mr. Rishabh Jain, but did not disclose the fact that Mr. Rishabh Jain was her step-grandson. As noted hereinbefore, it had come on record during the cross-examination and by way of other material placed on record that Mr. Rishabh Jain was Petitioner’s step-grandson. It is admitted case of the Petitioner, as deposed by Mr. Praveen Jain, that his father, Sh. Ram Kumar Jain, has two wives, *i.e.*, the present Petitioner and one Smt. Kanta Jain. In his cross-examination, as pointed out hereinbefore, Mr. Praveen Jain had admitted that in the eviction petition filed by Smt. Kanta Jain, against certain tenants, he had been given Power of Attorney and he had been mentioned as her son. Despite that, during cross-examination dated 20.09.2016, Mr. Praveen Jain denied a specific suggestion put to him that he was not the biological son of the Petitioner.

32. At this stage, it would be apposite to refer to the following portion(s) of the impugned judgment: -

“Now coming to the merits of necessity of petitioner's 'grandson' Rishab Jain, it is to be noted that in his WS the respondent has taken a categorical stand that husband of petitioner has two wives and Rishab Jain is not the grandson of petitioner but is son of Praveen Kumar, who is son of Sh. Ram Kumar (husband of petitioner) and his other wife Kanta



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Devi. **It is to be noted that respondent has deposed in his affidavit regarding the said facts categorically and there is not a single line of cross examination on the said aspect. Thus, said allegations of respondent are deemed to be admitted.** Further, PW1 Praveen Jain has deposed in his affidavit Ex.PW1/A in para 6 "*that my father Sh. Ram Kumar Jain is having two wives i.e. petitioner and one Smt. Kanta Jain. We are one family including Kanta Devi, my mother.*" Accordingly, it appears that PW1 has mentioned Kanta Devi as his mother. Further, in his cross examination dated 20.09.2016 he has admitted that "*it is correct that in the case filed by Smt. Kanta Devi against Smt. Meera Banwari, she had given me a power of attorney and mentioned in the same as being her son. It is also correct that subsequently during the pendency of present eviction petition in the eviction petition filed by Smt. Kanta Devi Jain against Sh. Subhash Chand Jain, she had appointed me as an attorney, being her son.*" **No explanation has been put forth by said witness as to why his 'step' mother is mentioning him as her 'son' and even he has been acting on such premise before Rent Controller in various petitions. Rather, last portion of his aforesaid testimony 'being her son' is not qualified as 'being her step son' and is a deemed admission.** Further, even the petitioner herself during her cross examination dated 03.03.2016 has deposed "*it is correct that Smt. Kanta Jain has stated in her eviction petitions against post office, Smt. Meera Banwari and Sh. Subhash Chand that Sh. Praveen was her son and she required premises for her sons and their families inclusive of Sh. Vimal Kumar*". **Accordingly, she has also admitted that the other wife of her husband has been professing before Rent Controller in three different petitions that Sh. Praveen (i.e. father of Rishab Jain) is her son. No explanation has been put forth by PW1 i.e. petitioner regarding the same. Further, PW1 has deposed that his father firstly married Smt. Kanta Devi Jain and later on he married Durga Devi Jain. On the other hand, PW1 Durga Devi Jain has deposed that Ms. Kanta Jain is the second wife of her husband Sh. Ram Kumar, thereby, implying that she is the first wedded wife of her husband. These facts also show that petitioner and her alleged son i.e. PW1 have not come clean on this aspect. It is to be noted that once a specific plea was taken by the respondent regarding the denial of relationship alleged by petitioner with Rishab Jain, the burden was on the petitioner to prove such relationship.** The petitioner and her alleged son Praveen Jain could have filed any document like birth



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certificate, matriculation certificate, ration card, Voter ID or other like public documents to show such relationship between the petitioner and her 'son' Praveen Kumar and resultant relationship of Rishab Jain with petitioner would have been proved automatically. **However, in the view of aforesaid facts and circumstances, the petitioner has failed to prove the same and rather preponderance of possibilities show that Praveen Jain is step son of petitioner and consequently Rishab Jain is son of step son of petitioner.**”

(Emphasis supplied)

This Court is of the considered opinion that the learned ARC had rightly dealt with the contention of the Respondent that Mr. Praveen Jain is not the real son of the Petitioner, and thus, Mr. Rishabh Jain is the step-grandson of the Petitioner. The impugned judgment further rightly records that the Petitioner had not approached the learned ARC with clean hands, as no material was placed on record to prove the alleged relationship of the Petitioner with Mr. Praveen Jain and Mr. Rishabh Jain. It is further noted that the Petitioner, even in the present petition, had taken the ground that she had specifically pleaded in the eviction petition that Mr. Praveen Jain is her real son; however, nothing has been placed on record before this Court to prove the same.

33. It has been contended by learned counsel appearing on behalf of the Petitioner that for the purposes of the present proceedings, whether Mr. Rishabh Jain was the step-grandson of the Petitioner or not would be irrelevant, because it had also come on record and the same has been admitted by the Respondent that the entire family of Sh. Ram Kumar Jain, including



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the Petitioner, Smt. Kanta Jain and their children, were one joint family residing together. In these circumstances, it was submitted that one such member of a joint family can be dependent on other member(s) *qua* any commercial property. Relying on the judgment of Hon'ble Supreme Court in **K.V. Muthu** (*supra*) it was urged that the term family member should be given broader interpretation, which should include the word step-grandson.

34. At this stage, it is pertinent to note that the learned ARC has not dismissed the eviction petition only on the ground that the Petitioner would not be entitled to seek *bona fide* requirement for her step-grandson (although not admitted by her), but on the ground that if the entire family comprising of the Petitioner, her husband, second wife, *i.e.*, Smt. Kanta Jain, their children and grandchildren are living together, and if any member of such joint family can seek eviction for the need of others, then the alternate accommodation(s) of the entire family should also be considered. As per the learned ARC, enough material had come on record to show that the family members had enough suitable alternate accommodation for the *bona fide* need of Mr. Rishabh Jain and despite availability of the same, the Petitioner could not have claimed *bona fide* requirement so far as her properties are concerned.

35. It has further come on record that before filing and during the pendency of the eviction proceedings, several vacant shops were available with the Petitioner and her family members, at different points in time. For the purposes of determining the same, it would be apposite to refer to the said cross examinations of the Petitioner and Mr. Praveen Kumar.



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35.1. The Petitioner, during her cross examination dated 16.07.2014, had deposed as under: -

“It is correct that I am the owner of the ground floor and basement of property bearing no. 88, Hari Nagar Ashram, New Delhi. The ground floor has two shops. One shop has been sold by me to M/s Bharadwaj Chemist but I do not remember the year. One shop and basement is still with me. It is correct that in property bearing no 87, Hari Nagar, Ashram, New Delhi, there were seven shops. **One shop was got vacated by Smt. Kanta Jain from the postal department and was merged in the residential portion. It is correct that the shop that was got vacated by Smt. Kanta Jain from Mr. Meera Banwari is with us.** Our goods are lying there. The shop adjacent to the shop of Ms. Meera Banwari has been let out to one Dr. Devender Jain, The two shops adjacent to the clinic of Dr. Jain are in possession of our relative.”

In view of the deposition of the Petitioner, it can be inferred that as on 16.07.2014, one shop along with a basement in property No. 88 and two shops in property No. 87 were available with the Petitioner and her family members.

35.2. The Petitioner, during her cross examination dated 03.03.2016, had deposed as under: -

“The shop next to Sh. Daya Chand Jain was under the tenancy of Sh. Subhash Chand Jain and now it has been vacated. Smt. Kanta Devi had filed an eviction petition against Subhash Chand Jain and an eviction order was passed.”

“It is correct that one room set on the first floor is in possession of Mr. M.L.Gupta, Advocate. It is correct that one room set which was earlier in possession of Mr. Tyagi, Advocate is now lying vacant and in our



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possession.”

It has further come on record the shop under the tenancy of Mr. Subhash Chand Jain was also available with the Petitioner and her family members, along with the one room set which was let out to Mr. Tyagi.

35.3. Mr. Praveen Jain, during his cross examination dated 20.09.2016, had deposed as under: -

“One shop in property No.88, Hari Nagar Ashram is owned by Smt. Durga Devi Jain.”

“It is correct that one shop which was in the tenancy of one Shri Subhash Chand Jain was got evicted and the possession thereof is with us. It is correct that the said shop is two side open. Vol. The size is only 10' x 10'.”

“It is correct that area apart from the six shops at the ground floor in property No.87 was under the possession of Post Office which was got vacated on the ground of bonafide requirement for residential purpose. Vol. It was not a shop, it was a garage. It is wrong to suggest that out of the six remaining shops, three shops are in our possession. **Vol. We have only two shops in possession.**”

“It is wrong to suggest that the entire first floor of property bearing No.87, Hari Nagar is being used for commercial purpose. It is correct that two rooms on the first floor is with Mr. M.L Gupta, advocate. It is correct that one room was with Shri R.B.S Tyagi. **Vol. He had vacated two years back. As on date, we have six rooms on the first floor of property No.87, Hari Nagar. It is wrong to suggest that the six rooms are being used as a godown. Vol. They are being used for residential purpose.**”

“There are four rooms on the second floor of property bearing No.87, Hari Nagar. **I have one room in my possession and three rooms are let out to tenants.** All the tenants in the second floor have been there for over 10 years.”



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35.4. The Petitioner, during her cross examination dated 06.02.2018, had deposed as under: -

“Since 31.12.2016, I am residing at B-Block, Jungpura. All family members have shifted from property 87, Hari Nagar Ashram to Jungpura. It is correct that property No.87 has been reconstructed after, demolition of the entire property. **It is correct that there are five floors i.e ground floor and four other floors in property No.87. It is correct that property No.87 is for commercial purpose.**

On Court Query, witness states that the same is residential-cum-commercial having provision for both. (Vol. The building had become dilapidated and hence, it was reconstructed after demolition).

It is wrong to suggest that there are no kitchens and bathrooms in the said property. It is wrong to suggest that the said property cannot be used for residential purposes. (Vol. Even if we do not reside, other persons can reside there).

It is correct that entire ground floor of said property is commercial having shops. I do not know if there are two shops on the Ground Floor opening in the same lane as the respondent's clinic. (Vol. Children used to look after the building and I do not look after). It is correct that in front of property No.87, there is an open space of almost 50-60 feet.”

The Petitioner, in the said cross examination has deposed that property No. 87 was reconstructed for commercial purposes after its demolition, and the ground floor of the same consisted of commercial properties.

35.5. Subsequently, during cross examination of Mr. Praveen Jain dated 06.02.2018, it had come on record that property No. 87 was reconstructed after demolition, and five floors were constructed on the said property. It is pertinent to note that during the said cross examination, Mr. Praveen Jain had



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refused to give answers *qua* property No. 87, and the same had been duly recorded by the learned ARC. It was noted by the learned ARC that Mr. Praveen Jain refused to give answers *qua* property No. 87, which he was giving earlier.

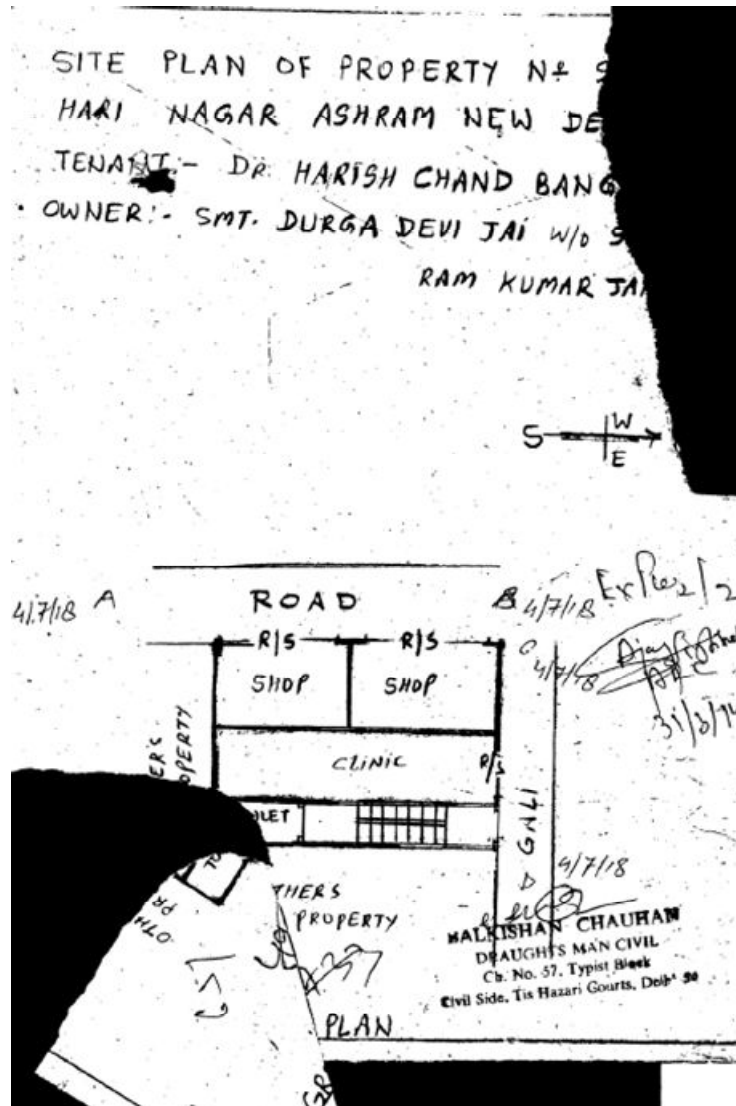
36. The record would further reflect that the Petitioner, in her cross examination dated 03.03.2016 had stated that property No. 88 and the shop under the tenancy of the Respondent are situated on the same road. It was further deposed by the Petitioner that only one building, being property No. 89, is situated between properties No. 88 and 90. The relevant portion of the said cross examination is reproduced as under: -

“It is correct that the shop in property no. 88 and the shop under the tenancy of the respondent are on the same road. It is correct that there is only one building bearing no. 89 between the property 88 and 90.”

37. At this stage, it would be apposite to refer to the site plan of the tenanted premises, which forms part of the subject premises, placed on record before the learned ARC. The same is reproduced as under: -



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A perusal of the site plan reflects that the tenanted premises, marked as “CLINIC”, is situated at the backend of two portions marked as “SHOP” in the site plan, and the said shops are at the front side of the subject property, i.e., property No. 90. The said shops are facing the main Mathura Road, whereas the tenanted premises neither faces nor opens towards the main road, as alleged by the Petitioner, and instead opens into an alley (*gali*). It is also

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noted that property No. 87 and property No. 88 are also situated in the same alley (*gali*) as the subject premises, and are adjacent to each other.

38. It would further be apposite to refer to the following portion of the cross examination of the Petitioner dated 03.03.2016: -

“The ground floor is in possession of Dr. Banga and there are no other shops. Again said there are two more shops which have been let out to one M/S. Narang Confectionares and other is with Anil Panwala. It is correct that he said shop are on the main road leading to Aashram crossing from Bhogal.”

In the said cross examination, the Petitioner had initially deposed that there are no other shops on the Ground Floor of the subject premises, apart from the tenanted premises; however, the Petitioner, in the very next sentence had deposed that there are two more shops, which had been let out and the said shops are on the main road. Perusal of the site plan shows that the said two shops are the ones which are situated on the main road, and the tenanted premises are situated at the backend of the said shops. It is further noted that the Respondent had taken the said plea in his written statement as well and the Petitioner was also cross examined *qua* the same.

39. The fact that the Petitioner is also the owner of property No. 88 had been concealed by her in the eviction petition, and the same was only brought to the knowledge of the learned ARC by the Respondent. A perusal of the testimonies of the parties would reflect that the Petitioner was in possession of a shop alongwith a basement on the ground floor of property No. 88, as



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noted hereinbefore, and the said property is located in the same alley (*gali*) where the tenanted premises are located and is also adjacent to the same. Further, the said shop in property No. 88 opens towards the alley (*gali*) in the same manner as the tenanted premises. It is further noted that Mr. Praveen Jain, in his cross examination dated 06.02.2018, had stated that the tenanted premises faces and opens towards Mathura Road/main road, which statement is again contrary to the site plan, and hence, the testimonies of the Petitioner and Mr. Praveen Jain suffer from material inconsistencies and is contradictory to the site plan, as was filed before the learned ARC. The evidence of Mr. Praveen Jain, as pointed out hereinbefore, was completely evasive on material aspects.

40. This Court, after carefully going through the record and relevant testimonies of the parties, has come to a conclusion that at the time of filing the eviction petition, the Petitioner and her family members had sufficient alternate suitable accommodation available with them for the purposes of *bona fide* requirement of Mr. Rishabh Jain. The Petitioner could not discharge the burden under Section 14(1)(e) of the DRC Act.

41. The powers of this Court under Section 25-B(8) of the DRC Act are not as wide as those of an Appellate Court, and in case, it is found that the impugned orders are in accordance with law and do not suffer from any jurisdictional error, this Court must refrain from interfering with the same.



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In **Sarla Ahuja v. United India Insurance Co. Ltd.**²⁶, 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.”

42. In **Abid-Ul-Islam v. Inder Sain Dua (supra)**²⁷, the Hon'ble Supreme Court while dealing with the scope of revision under the DRC Act, 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 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

²⁶ (1998) 8 SCC 119; AIR 1999 SC 100

²⁷ (2022) 6 SCC 30 : (2022) 3 SCC (Civ) 287 : 2022 SCC OnLine SC 419



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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.”

43. The jurisdiction of this Court is confined to examining whether the impugned judgment suffers from any error apparent on the face of the record and this Court cannot reappraise evidence or substitute its own view, unless the impugned order is shown to be arbitrary, perverse, or vitiated by material impropriety, and therefore, in the considered opinion of this Court, no interference with the findings returned by the learned ARC in the impugned judgment is warranted. The present petition is dismissed and disposed of, accordingly.

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

45. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA
(JUDGE)**

MAY 19, 2026/sn/db

Signature Not Verified

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KUMARI SHARMA RC.REV. 30/2019
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