



2026:DHC:5385



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Reserved on: 30th April, 2026******Pronounced on: 6th July, 2026***

+ RC.REV. 235/2024 & CM APPL. 64052/2024

SH. BRIJ MOHAN BATTAPetitioner
Through: Mr. Himanshu Lilani and Mr.
Siddharth Singh, Advocates.
versus

SH. TARA CHAND GARG & ANR.Respondents
Through: None (proceeded *ex-parte*).

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

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

“In light of the facts and circumstances of the case, the Petitioner most respectfully and humbly prays that this Hon’ble Court be pleased to:-

a) Set aside the Impugned Judgment / Order dated 08.07.2024 passed by Ms. Tapasya Agarwal, Ld. ACJ/CCJ/ARC District (West), Tis Hazari Courts InRC/ARC No. 16 of 2013 25664/2016 titled as “Shri Brij Mohan Batta Vs. Shri Tara Chand Garg &Ors.”.

b) Grant the relief of eviction of the demised premises as prayed for in the Petition by the Petitioner;

¹ For short, ‘DRCA’



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Pass such further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. By way of the present petition, the petitioner is seeking setting aside of impugned judgment dated 08.07.2024 passed by learned Additional Rent Controller, West, Tis Hazari Courts, Delhi, in **RC ARC 16/2013 (25664/16)**, titled as, ‘Brij Mohan Batta v. Tara Chand & Sons & Ors.’, whereby, the eviction petition filed on behalf of the petitioner was dismissed.
3. At the very outset, it is pertinent to note that during the pendency of present petition, the petitioner has passed away on 10.01.2026. An application, **CM APPL.11513/2026**, under Order XXII Rule 3 read with Section 151 of the CPC was filed on behalf of the legal representatives of the deceased petitioner, *i.e.*, his wife, two sons, and one daughter/applicants, and the same was allowed by learned Joint Registrar (Judicial) *vide* order dated 20.04.2026 as the deceased petitioner was not survived by any other class-I legal heirs except the applicants, and right to sue survived in their favour.
4. It is further pertinent to note that notice was issued to the respondents in the present petition on 23.09.2024. Subsequently, an application, **CM APPL.64052/2024**, under Section 151 of the CPC was filed on behalf of the petitioner for issuance of notice only against Legal Representative No.1E-Sunil Garg of the respondent No.1-Tara Chand Garg. *Vide* order dated 10.02.2025, learned Joint Registrar (Judicial) observed that service is complete as respondent No.1(A to F) are served and respondent No.2 is represented through legal representative. However, before Court, none appeared on behalf of the respondents, on 10.03.2025 and 07.08.2025, despite

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service. On 13.11.2025, learned Predecessor Bench noted that there was no appearance on behalf of the respondents despite being duly served, and in view of the same, they were proceeded *ex-parte*, and their right to file the reply was closed.

BRIEF BACKGROUND

5. The original petitioner-Brij Mohan Batta had filed the subject eviction petition under Section 14(1)(e) of the DRCA against the respondent Nos.1, 2, and 3, who were Late Tara Chand Garg, Late Deep Chand Mittal (in their capacity as a partners of M/s Tara Chand & Sons), and M/s Tara Chand & Sons (through its partners respondent Nos.1 and 2). It was stated in the petition that original petitioner is the owner/landlord of demised premises, *i.e.*, Shop bearing No.3/14-A, measuring 22' x 10', Kirti Nagar, Industrial Area, New Delhi, as shown in red colour in the site plan attached with the petition. It was further stated that the property was owned by Late Shri Hari Chand and the petitioner is the legal heir of Shri Hari Chand. The demised premises were given on rent on 04.02.1970 to respondent Nos.1 and 2.

6. It was further stated that the adjoining shop is with the petitioner from where he is running a catering business. The petitioner had two sons, namely Nitin Batta, 25 year old, and Ankush Batta, 24 year old. His both sons are unemployed and the petitioner is unable to manage his food catering business, due to the fact that he is all alone and requires additional accommodation, *i.e.*, demised premises, so that his both sons could sit and run the business. It was further stated that there is no other suitable accommodation available with the

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petitioner except demised premises. It was further stated that the petitioner required the demised premises for his *bonafide* requirement for the purpose of settlement of business of his sons, who are unemployed and willing to run their own businesses from the demised premises.

7. In leave to defend application filed on behalf of respondent Nos.1 and 3, it was pointed out that respondent No.2-Deep Chand Mittal had died long back, and if the petitioner wanted to file any petition against said respondent, then the same should have been filed in the name of his legal heirs/representatives. During the proceedings before learned ARC, the subject petition was withdrawn by the petitioner *vide* statement dated 18.09.2013. Respondent No.2 was deleted from array of parties by learned ARC *vide* order dated 18.01.2016.

8. Respondent Nos.1 and 3, in their leave to defend application, had stated that the petitioner had wrongly alleged that he is carrying his catering business from the adjoining shop. It was pointed out that sad business requires license from MCD, TIN verification number from VAT Office, service tax number etc. It was stated that the petitioner is carrying the business of running Punjabi Rasoi, where food articles are being sold at fixed rates mentioned on the door. It was stated that the subject property is situated in industrial area. The petitioner is in possession of one shop situated on the ground floor of the property, and the construction of entire first and second floor. The entire construction and shop on ground floor is in possession of the petitioner. It was the stated that the said construction is lying locked without any use for last several years and if the petitioner was in necessity of getting any business



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started for his sons then, the same would have been utilised by him for running the business for his sons. It was the case of these respondents that the petitioner had not started any business in the name of his son and same shows that he has no *bonafide* requirement.

9. It was further stated that the petitioner had kept the portion of the property vacant as his sons are carrying business under the name and style of 'Om Vanesosa Creations', dealing in gift items and theme packaging from the ground floor of property bearing No.41/7. East Punjabi Bagh, New Delhi-26. It was further state that the sons of the petitioner are carrying on business and have established the same. Even otherwise, the petitioner is two shops lying vacant in premises being bearing No.41/7. East Punjabi Bagh, New Delhi-26, and said shops are lying vacant for last several years without any use and therefore the petitioner do not require any shop for the business or for his sons who are gainfully employed in the business run from the shop situated on the ground floor of the property as noted hereinbefore. It was further stated that even the mobile number of the son of the petitioner was mentioned. The petitioner is having sufficient alternate accommodation available at his disposal, and it has been falsely averred that he has no other reasonable suitable accommodation except the demised premises. It was further stated that the petitioner himself is also gainfully employed and do not require any additional accommodation. Based on these averments in the application seeking leave to defend application filed by respondent Nos.1 and 3, leave to defend was granted to the said respondents by learned ARC *vide* order dated 12.12.2013. Written statement was filed on behalf of these respondents on 10.01.2014. During the pendency of proceedings before learned ARC,

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respondent No.1-Tara Chand Garg passed away and on an application filed on behalf of the petitioner under Order XXII Rule 4 read with Section 151 of the CPC his legal representatives were impleaded on 30.10.2017. Further, *vide* order dated 04.12.2017, on account of non-appearance on behalf of legal representatives of respondent No.1 except for Rewati Garg (1A), and Sunil Garg (1E), other legal representatives were proceeded *ex-parte* by learned ARC.

10. Learned ARC, after conducting trial and appreciating the material placed on record, dismissed the eviction petition filed on behalf of the petitioner *vide* judgment dated 08.07.2024. Hence, the present petition has been filed assailing the same.

SUBMISSIONS ON BEHALF OF THE PETITIONER

11. Learned counsel for the petitioner has made the following submissions of the latter's case: -

i) It is submitted that learned ARC had dismissed the eviction petition solely on the premise that the respondent had filed photographs alleging that a shop was being run under the name and style of 'Om Vaneesa Creations' and the banner in the photograph contained the mobile number of the son of the petitioner, and it was admitted by the petitioner only to the extent that the phone number is of one of his sons, and therefore, there is no *bonafide* requirement of the demised premises by the petitioner.



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ii) It is submitted that the aforesaid defence taken by original respondent No.1 was refuted by the petitioner in reply filed to the written statement filed on behalf of respondent Nos.1 and 3. It is case of the petitioner that reliance placed on said banner by respondent No.1 is misplaced as the said banner was hung on a closed shop, and said shop does not belong to the petitioner. It is further submitted that the shop on which said banner has been put is a part of the property of petitioner's brother, and the petitioner does not have any right, title, and interest in the said property. It is further the case of the petitioner that the contention with respect to availability of first and second floor of the petitioner for satisfying the alleged *bonafide* requirement is bereft of merit inasmuch as said floors are not conducive for running a restaurant since customers do not walk upto stairs, and only prefer gently walking in and out from the shop for their meals.

iii) It is further the case of the petitioner that respondent No.1 is not using the demised premises, and the entire shop remains closed on most of the days, and only a chair and table is placed inside the shop and no business is being carried out from the demised premises by respondent No.1.

iv) It is further submitted that during the course of proceedings, respondent No.1- Tara Chand Garg had passed away on 11.12.2014, and despite service, his LRs did not appear before learned ARC, and were proceeded *ex-parte*.



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v) It has been argued that one of the sons of the petitioner is working at a restaurant, and another is unemployed. His sons are or not running any business under the name and style of 'Om Vaneesa Creations' from property bearing No.41/7, East Punjabi Bagh, New Delhi, however, the said property belongs to petitioner and his brother. The banner exhibited as Ex. PW1/D2 does not belong to the petitioner as also his sons and his family. It is further submitted that in the said property situated at East Punjabi Bagh, only four shops belong to the petitioner. Out of said four shops, three have been rented by the petitioner and only one shop is in his possession. It is further submitted that the photographs placed on record by respondent No.1 of the said property do not show that sons of petitioner are working in the said shop. Even LRs of respondent No.1 had not placed on any material to show that son of petitioner are presently working or not.

vi) It is further submitted that respondent No.1 had failed to adduce any document to establish the fact that the demised premises are in active usage and are not lying vacant. It is pointed out that, LR of respondent No.1-Sunil Garg (respondent No.1E) in his cross-examination admitted that photographs in respect of the alleged banner placed on record do not depict that shop in Punjabi Bagh premises is vacant or not. It is also pointed out that Sunil Garg was also not aware as to whether business of 'Om Vaneesa Creations' is being run by the sons of the petitioner or not.



vii) It is further the case of the petitioner that mere admission of the petitioner that mobile No.9212241784 on the banner of ‘Om Vaneesa Creations’ was of one of his sons does not mean that sons of petitioner are running business, and neither can it be presumed that property of petitioner’s brother would be available for satisfying the *bonafide* requirement of the petitioner over which he does not have any right title or interest. It is submitted that learned ARC had failed to appreciate these facts, and had passed the impugned judgment on the basis of incorrect appreciation of evidence which has come on record during the course of trial, and therefore, liable to be set aside.

ANALYSIS AND FINDINGS

12. Heard learned counsel for the petitioner and perused the records.

13. Learned ARC, in the impugned judgment dated 08.07.2024, with respect to the alternate suitable accommodation available with the petitioner as well as the *bonafide* requirement of the petitioner for himself or for any member of his family dependent upon him, had observed as under: -

“ 14. Whether suitable alternate accommodation is available with the petitioner?”

14.1 In his written statement, the respondents have submitted that the petitioner is in possession of suitable alternate accommodation. The petitioner is in possession of one shop situated on the ground floor of property in dispute and the entire first and second floor of the said property which is lying locked for the last several years.



They have further stated that the petitioner also has two vacant shops at property bearing no.41/7, East Punjabi Bagh, New Delhi.

14.2 It is the case of the petitioner in his replication that his sons want to open a restaurant from the tenanted premises. He has also stated that the first floor of the property in dispute is being used as godown purpose for storing unused articles from his previous businesses whereas the second floor was rented out to K.C. Engineering by his father.

14.3 Further, this Court is in agreement with the submission of the petitioner that the first and second floor may not be conducive for opening a restaurant since customers do not want to walk up a flight of stairs and gently preferred quickly walking in and out from the shop for their meals. Even otherwise, it is settled law that court cannot dictate which floor should be used by the landlord for his purpose. Thus, there is no merit in the submission of the respondent that the first and second floor of the property in question is available to the petitioner as alternate accommodation.

14.4 As regards the shops at East Punjabi Bagh, the petitioner has admitted in his cross-examination that out of the 07 shops, 04 belong to him. Out of the 04 shops, 03 are under the occupation of tenants. No further questions have been put to PW1 regarding the feasibility of shops at East Punjabi Bagh for his requirement. Thus, the respondent is unable to prove any suitable alternate accommodation available with the petitioner.

15. Petitioner bonafidely requires the tenanted premises for himself or for any member of his family dependent upon him.

15.1 In order to discuss the bonafide requirement of the petitioner, it is first relevant to discuss the law as laid down in judgment passed by Hon'ble Supreme Court of India titled as *Sarla Ahuja v. United India Insurance Co. Ltd., AIR 1999 SUPREME COURT 100* wherein it was held that:-

“.....The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall



not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by Courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bonafides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself....”.

15.2 Thus, it is now well settled law that once the landlord shows a prima facie case, a presumption that his need is bonafide, may be drawn in his favour. The onus shifts upon the tenant to displace this presumption.

16. In the facts of the present case, as per the petition filed by the petitioner, he requires the tenanted premises as both of his sons are unemployed. The petitioner is running a catering business from the adjoining shop, but since he is all alone, he is unable to manage the same and requires additional accommodation so that both his sons can sit and run the business. What business is sought to be run by the sons of the petitioner, has not been specified in his petition, however, there are many judgments of Superior Courts which states that the petitioner is not required to specifically plead the nature of business to be run from the tenanted premises.

17. Admittedly, in replication filed by the petitioner to the written statement of the respondent, the petitioner in Para 18 (a)(iii) stated that he has closed down the dhaba and started using the adjoining shop for running denting and painting of car business. Then, in Para 18(a)(vi) of his replication, he has stated that the tenanted premises is required as the sons of the petitioner intend to run a restaurant from the tenanted premises. He has further elaborated to say that the tenanted premises shall be used a kitchen and the other shop shall be used as sitting area.

18. During his cross-examination, the petitioner stated that he closed the business of denting and painting of cars in 2018 and started a partnership of job work from the adjoining shop which



stood dissolved due to demise of his partner. Further, in his cross-examination, he also stated that one of his sons is working in a restaurant while the other is unemployed.

19. Thus, originally, the requirement of the petitioner that he wants the sons to run the business of catering became infructuous as admittedly, the petitioner has shifted businesses multiple times after the filing of the petition. However, this fact alone cannot be read against the petitioner as the case of the petitioner was instituted in the year 2012 and he cannot be expected to run any loss making business for the purposes of petition.

20. From the beginning, the stand taken by the tenant, has been that the bonafide need of the petitioner is forged and fabricated as the sons of the petitioner are running a business in the name and style of Om Vaneesa Creation dealing with gifting and theme packaging. When confronted with the photographs Ex.PW1/D2 being the photograph of the banner of Om Vaneesa Creation hung outside a shop, the petitioner first denied that the phone numbers on the same did not belong to his sons, but he later, admitted that mobile no.9212241784 belongs to one of his sons. He also admitted that the shop on which the banner of Om Vaneesa Creation was put, belong to his brother. I am unable to agree with the petitioner that the business of Om Vaneesa Creation does not belong to his sons as the mobile number on the banner is admitted and it is also admitted that the shop on which the banner is hung, belongs to the brother of the petitioner.

21. The petitioner has not lodged any complaint with regard to misuse of his sons' phone number neither has he produced his brother as a witness to show that his sons were not running the business of Om Vaneesa Cration from the shop of petitioner's brother.

22. It is not the case of the petitioner that his sons want to wind up the said business and start a restaurant neither has he pleaded that his sons want to simply open another business of a restaurant from the tenanted premises. In his cross, it was stated by RW-1 that the photograph Ex.PW1/D2 were taken 11 years old. However, since the very beginning i.e. from reply to respondent's leave to defend, the petitioner has categorically denied that his sons are



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running any other business. Thus, it appears that the petitioner has not come to the court with free hands.

23. In view of the discussion above, I have no hesitation in holding that the need of the petitioner appears to be concocted and fabricated to evict the respondent from the tenanted premises.

24. As the petitioner has not been able to establish his bonafide need, the petition stands *dismissed*.

14. Thus, the learned ARC has dismissed the eviction petition of the petitioner on the ground that he could not establish the *bonafide* requirement of the demised premises. Admittedly, in the eviction petition, the petitioner had shown his *bonafide* requirement that the demised premises are required for both of his sons who are unemployed and the petitioner who is running the business of Food Catering, is now unable to manage the same due to the fact that he is all alone, and requires the additional accommodation, i.e., demised premises, so that both his sons sit and run the business from the said premises. It is pertinent to note that respondents had, from the very beginning, in their application for leave to defend had specifically taken the ground that the sons of the petitioner are carrying business under the name and style of 'Om Vaneesa Creations' from property bearing No.41/7, East Punjabi Bagh, New Delhi-26. In support of the application for leave to defend, they had also placed on record the photographs showing the banner of the said enterprise bearing the phone and mobile numbers of one of the sons of the petitioner. It is noted that the respondent's application seeking leave to defend was allowed *vide* order dated 12.12.2013 by learned ARC by observing as under: -

"11 SECOND DEFENCE: -Sons of petitioner already in business.

11.1 It has been stated by the respondent no.1 and 3 in their



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the ground floor of the property bearing No.41/7, East Punjabi Bagh, New Delhi- 26. The said sons of the petitioner are carrying on the said business and are established in the said business. The petitioner has kept the portion of the premises in dispute vacant because sons of the petitioner are gainfully employed in the said business of Om Vaneesa creation. Even otherwise, the petitioner has got two shops lying vacant in premises bearing no.41/7, East Punjabi Bagh, New Delhi and the said shops are lying vacant for the last several years without any use and the petitioner do not require any shop for the business shop and the sons of the / petitioner because sons of the petitioner are gainfully employed in the business being run from the shop situated on the ground floor of the said property at East Punjabi Bagh. Even the mobile number of the sons of the petitioner was mentioned. The petitioner as such is having sufficient accommodation and the sons of the petitioner are gainfully employed and as such, the petitioner do not requires any accommodation for the sons of the petitioner. It has been falsely alleged that the petitioner has no other reasonably suitable accommodation available to the petitioner except the present one. As already submitted the petitioner has got reasonable suitable alternative commercial accommodation where the petitioner's sons can carry business activities though, sons of the petitioner are already gainfully employed in the business of Om Vaneesa Creation. The petitioner himself is also gainfully employed and the business of the petitioner is such, which do not require any additional accommodation. Initially the petitioner was carrying the business of running the dhabha but now the petitioner has closed down the said business and started the business of denting and painting of vehicles. The photographs of location of the property in dispute and also of the East Punjabi Bagh property have already been filed on court record."

16. In these circumstances, it was incumbent upon the petitioner to establish by way of documents or otherwise to show that the banner shown in the photographs) exhibited as Ex.PW-1/D2 did not belong to his sons. It is aptly observed by learned ARC that the petitioner did not even examine his brother, who, as per the petitioner, was owner of the shop on which the banner was hung nor did he produce any documents in this regard.

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17. Further, learned ARC has rightly observed that it was not the case of the petitioner that his sons wanted to wind up the said business, and start a restaurant nor has he pleaded that his sons wanted to open another business of the restaurant from the demised premises. It is further pertinent to note that apart from the banner, the respondent had also placed on record a visiting card, again reflecting the contact number of the petitioner's son which was exhibited as Ex.RW-1/1 having the same number as reflected in the banner in the aforesaid photographs (Ex.PW-1/D-2). Thus, the contention of learned counsel for the petitioner that the learned ARC did not take into account the statement given by way of evidence to the effect that his sons were not running the aforesaid 'Om Vanesosa Creations' is not tenable.

18. The powers of this Court under Section 25B (8) of the DRCA 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.**², 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

² (1998) 8 SCC 119; AIR 1999 SC 100



works, 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."

19. The Hon'ble Supreme Court in **Abid-Ul-Islam v. Inder Sain Dua**³, with respect to scope of revision under DRA, 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 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."

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



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20. 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 reappreciate 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.

21. In view of the aforesaid facts and circumstances of the present case, no grounds for interference with the impugned judgment dated 08.07.2024 passed by learned Additional Rent Controller, West, Tis Hazari Courts, Delhi, in **RC ARC 16/2013 (25664/16)**, titled as, 'Brij Mohan Batta v. Tara Chand & Sons & Ors.', whereby, the eviction petition filed on behalf of the petitioner was dismissed, are made out, and the same is, accordingly, upheld.

22. The present petition is dismissed and disposed of.

23. Pending applications, if any, also stand disposed of accordingly.

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

AMIT SHARMA
(JUDGE)

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