



2026:DHC:79



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

*Judgment reserved on: 20.11.2025*

*Judgment delivered on: 07.01.2026*

+ RC.REV. 300/2024, CM APPL. 63036/2024, CM APPL. 14953/2025

SATISH KUMAR GUPTA .....Petitioner

Through: Dr. Amit George with Mr. Nitesh Mehra, Ms. Hitaakshi Mehra, Ms. Ibansara Syiemlieh and Ms. Pratishtha Verhwani, Advocates.

versus

SUSHIL KUMAR LOOMBA .....Respondent

Through: Mr. Murari Tiwari, Mr. Tripurari Tiwari, Mr. Rahul Kumar, Ms. Payal Dhupar, Ms. Indira Murthy, Ms. Shadwali and Ms. Nimisha Gupta Advocates.

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**J U D G M E N T**

**ANUP JAIRAM BHAMBHANI J.**

By way of the present revision petition filed under section 25B(8) of the Delhi Rent Control Act 1958 ('DRC Act'), the petitioner challenges order dated 31.05.2024 passed by the learned Additional Rent Controller, North-District, Rohini Courts, New Delhi ('ARC') in Eviction Petition bearing RC ARC No. 384/2016.



## **FACTUAL BACKGROUND**

2. Briefly, the present petition relates to Shop No. 2 situate on the Ground Floor of property bearing No. C-32, Nehru Road, Adarsh Nagar, Delhi ('subject premises'), which premises has been in the use and occupation of the petitioner for more than 30 years, with the last paid rent of Rs. 702/- per month.
3. On 14/15.10.2016 the respondent (landlord) filed an eviction petition under section 14(1)(e) read with section 25B of the DRC Act seeking eviction of the petitioner (tenant) from the subject premises, on the ground that respondent *bona-fidé* requires the subject premises to start his own business since the respondent's only source of income has been his rental income.
4. Pursuant thereto, on 16.11.2016, the petitioner filed his application seeking to leave to defend the eviction petition under section 25B(4) and (5) of the DRC Act, which application came to be dismissed; and resultantly, the eviction petition was allowed *vide* impugned order dated 31.05.2024 passed by the learned ARC.
5. The court has heard Dr. Amit George, learned counsel appearing for the petitioner; as well as Mr. Murari Tiwari, learned counsel appearing for the respondent at length.

## **PETITIONER'S SUBMISSIONS**

6. On behalf of the petitioner, it is submitted that the present revision petition has been preferred against order dated 31.05.2024 passed by the learned ARC in the eviction petition, whereby the application seeking leave to defend filed by the petitioner in respect of the subject premises has been dismissed, thereby directing eviction of the



petitioner from the subject premises without trial. It is contended that the impugned order is vitiated since it ignores material facts, documentary evidence and settled principles governing the grant of leave to defend under section 25B of the DRC Act.

7. It is urged that the eviction petition was filed under section 14(1)(e) of the DRC Act in 2016 with the sole intent of securing higher rental income by evicting the petitioner, and not on account of any genuine or *bona-fidé* requirement. The respondent is alleged to have deliberately suppressed the availability of Shops Nos. 1 and 3 in the same building, which, it is contended, remained vacant during the pendency of the eviction proceedings, thereby creating a false appearance of scarcity to found a false claim of personal necessity. The petitioner emphasises that his tenancy in Shop No. 2 dates back to 1994 under a *pagri* arrangement, pursuant to which an amount of Rs. 3,25,000/- was paid to the respondent's father and rent of Rs. 360/- per month, then commensurate with the market rate, has been regularly tendered without default, though the respondent subsequently declined to accept rent with the oblique motive to re-let the premises for a higher consideration.
8. It is further submitted that the respondent's alleged closure and sale of his industrial oxygen gas cylinder business under agreement dated 10.05.2016 for Rs. 1,00,000/- is denied by the petitioner, who asserts that the respondent continues to carry-on the said business and that the plea of closure of that business is a device to manufacture a false ground of 'need' which does not exist.



9. The cornerstone of the petitioner's challenge is that the requirement pleaded by the respondent is not *bona-fidé* in view of the availability of suitable, alternate accommodation in the hands of the respondent, in the form of Shops Nos. 1 and 3 in the same building. As to Shop No. 1, it is contended that although the respondent initially claimed that the said shop was let-out to one Mr. Vinod Kumar, the petitioner had placed substantial documentary and photographic material on record before the learned ARC to show that Shop No. 1 stood vacated as far back as in 2016; and that, when confronted, the respondent produced a purported Surrender Deed dated 20.08.2018 (appended as Annexure A-10 to the revision petition) to support his contention that the said shop has been re-let, which surrender deed however did not even bear the signatures of any witness, thereby casting serious doubt on its genuineness. The petitioner also points-out, that later, the respondent took a false plea that the respondent's wife had started a boutique under the name and style of "M/s. Nice Boutique" from Shop No. 1 in September 2018; but that plea did not find mention in the application under section 151 of the Code of Civil Procedure 1908, filed by the respondent to place the said Surrender Deed on record, which, according to the petitioner, betrays that the plea relating to the wife's business was an afterthought on the respondent's part and was inconsistent with the stand taken by the respondent earlier.
10. With regard to Shop No. 3, it is submitted that the said shop was vacated by the Bank of India in 2022 and was available to the respondent for his use; but that the respondent's intention is only to re-let Shop No. 3 for earning higher rental income, while seeking to evict



the petitioner from Shop No. 2. The petitioner contends that the respondent's true intention wholly undermines his plea of *bona-fidé* requirement of Shop No. 2 for personal use, inasmuch as a similarly situate commercial unit, *viz.*, Shop No. 3 in the same building, is being treated only as a source of higher rent and not as a premises required for personal use.

11. The availability of Shops Nos. 1 and 3 throughout the substantial phase of the eviction proceedings, is thus asserted to constitute clear availability of alternative accommodation, and the photographs already on record (appended as Annexure A-21 to the revision petition) are relied upon to show that both those shops remained vacant, which, according to the petitioner, fatally erodes the credibility of the respondent's projected 'need'.
12. The petitioner submits that, it is settled law that at the stage of considering an application seeking leave to defend an eviction petition under section 25B of the DRC Act, the court is only required to see whether the tenant has raised any triable issues, which warrant a full-fledged trial; and that leave-to-defend cannot be refused where the eviction petition appears to have been filed by way of a design to wrongfully evict a protected tenant; and where the landlord's requirement is neither *bona-fidé* in *praesenti* nor anything more than a mere 'desire' to evict the tenant and not any 'need' as contemplated under section 14(1)(e) of the DRC Act. It is further contended that the learned ARC has adopted an erroneous and one-sided approach to the evidence on record, by uncritically accepting the respondent's unsubstantiated assertions regarding the boutique business of his wife,



while completely disregarding the petitioner's documentary and photographic material concerning the vacancy and availability of Shops Nos. 1 and 3, without assigning any cogent reasons for discarding such evidence.

13. On this basis, the petitioner prays that the impugned order be set-aside, the existence of triable issues be recognized, and leave to defend the eviction petition be granted to the petitioner, so that the matter may proceed to trial on the question of the respondent's alleged *bona-fidé* requirement and the availability of suitable, alternate accommodation in the respondent's hands.

#### **RESPONDENT'S SUBMISSIONS**

14. On behalf of the respondent, it is submitted that the present revision petition assailing order dated 31.05.2024 passed by the learned ARC is not maintainable and warrants outright dismissal, since the petitioner has approached this court based on false and misleading assertions. In particular, it is submitted that the petitioner has deliberately concealed his residential address and falsely projected himself as a "caretaker" of Shop No. 2, despite having been a tenant in the subject premises, who has already been directed by the learned ARC to vacate the premises, thereby attempting to obfuscate his true status and circumvent the eviction order.
15. It is further submitted that the respondent is a senior citizen and the admitted owner/landlord of the property comprising 03 shops, of which the petitioner was inducted as tenant in Shop No. 2. It is pointed-out, that in paragraph 16 of his leave-to-defend application filed before the



learned ARC, the petitioner has acknowledged the landlord-tenant relationship as between the respondent and the petitioner.

16. It is argued that the petitioner has falsely claimed that the eviction petition was founded on false, frivolous and baseless allegations, though the respondent's eviction petition was instituted on the ground of his *bona-fidé* requirement of the subject premises for running his own business to earn his livelihood, since the respondent had no other reasonably suitable, commercial accommodation available to him.
17. The respondent supports the impugned order, by submitting that the learned ARC has rightly rejected and dismissed the tenant's application for leave to defend the petition, after recording a clear finding that the respondent requires the tenanted shop for commercial use, and that no suitable, alternate premises is available with the respondent. It is argued that the learned ARC has also correctly held that the petitioner failed to raise any substantial or reasonable defence which could give rise to any triable issues, thereby justifying refusal of leave under the special summary procedure under section 25B of the DRC Act.
18. With respect to specific objections, it is urged that the learned ARC has also correctly discarded the tenant's plea that the respondent continues to run an oxygen-cylinder supply business, in view of the undisputed transfer of that business to one Mr. Manish Kumar Bhardwaj by an undertaking dated 10.05.2016, after which the respondent has had no business of his own. Likewise, the contention that Shop No. 1 constitutes alternative accommodation has also been rightly rejected, since Shop No. 1 was let-out to Mr. Vinod Kumar under rent agreement/deed dated 24.04.2015 and Shop No. 3 was let-



out to M/s Prizm Payment Services Pvt. Ltd. under a Lease Deed dated 13.04.2015; and the petitioner's assertion that Mr. Vinod Kumar had surrendered Shop No. 1 in 2018 so as to satisfy the respondent's need in August 2017, has been correctly found to be frivolous. It is submitted that the learned ARC has also correctly disbelieved the allegation that Shop No. 1 was lying vacant, since the evidence on record shows that the respondent's wife has been running a boutique/tailoring business for ladies' suits from that shop under the name and style "M/s Nice Boutique" since 2018.

19. In support of the proposition that the landlord is the best judge of his requirement, the respondent has placed reliance on the decision of the Supreme Court in *Anil Bajaj & Anr. vs. Vinod Ahuja*<sup>1</sup>.
20. On this foundation, the respondent submits that the learned ARC's findings on *bona-fidé* requirement and absence of alternative accommodation are unassailable and that the petitioner's revision discloses no ground for interference under section 25B(8) of the DRC Act.
21. The respondent accordingly prays, that in light of the facts and the judicial precedents cited, the revision petition be dismissed.

#### DISCUSSION & CONCLUSIONS

22. A perusal of the impugned order shows that the learned ARC has proceeded to allow the respondent's eviction petition based on the following inferences :

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<sup>1</sup> (2014) 15 SCC 610



- 22.1. *Firstly*, that there was no dispute *qua* the landlord-tenant relationship between the respondent and the petitioner;
- 22.2. *Secondly*, that the *bona-fidé* requirement of the respondent for using the subject premises for running a business was made-out, since at the time of filing the eviction petition the respondent had already sold his previous business of supplying oxygen cylinders; and
- 22.3. *Thirdly*, that the respondent was able to establish that he did not have any other suitable, alternative accommodation for his *bona-fidé* need of running a business.

23. On perusing the impugned order, it is seen that in arriving at the above conclusions, the learned ARC has dealt with all the contentions raised by the petitioner; and has observed that none of those contentions were well-founded; and that the cases relied upon by the petitioner also did not come in aid of his arguments.
24. While dealing with the rival contentions of the parties, the learned ARC has also *inter-alia* cited ***Ragavendra Kumar vs. Firm Prem Machinery & Co.***<sup>2</sup> to re-iterate that:

*“ ..... the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter.”*
25. On a conspectus of the above :
  - 25.1. *Firstly* it is seen that there was no dispute as regards the ‘landlord-tenant’ relationship as between the respondent and the petitioner.

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<sup>2</sup> (2000) 1 SCC 679, para 10



25.2. *Secondly*, the other bone of contention raised by the petitioner, *viz.*, that the respondent was already running the business of supplying oxygen cylinders from elsewhere, was also a red-herring for two reasons: *one*, that the respondent had placed on record an undertaking dated 10.05.2016, which evidences that the said business had been transferred by the respondent to a third party; and *two*, even assuming that the respondent was continuing with his business of supplying oxygen cylinders, that would not, in and of itself, foreclose the respondent's right to start a new business from the subject premises.

25.3. *Thirdly*, insofar as availability of alternate accommodation is concerned, the learned ARC has duly dealt with that issue and has accepted the explanation offered by the respondent in relation to Shops Nos. 1 and 3, namely that both the said shops are being used by the respondent's wife for running her boutique. The learned ARC has also observed that the petitioner cannot interfere with the discretion of the respondent's wife using a shop which fell vacant during the pendency of the eviction petition in relation to Shop No. 2 *i.e.*, the subject premises. This court finds no reason to form a different opinion on that issue.

26. Based on the preceding discussion, this court agrees that order dated 31.05.2024 issued by the ARC, which rejected the petitioner's leave-to-defend application and issued an eviction order, is lawful. The court finds that the learned ARC reached his conclusions based on the documents on record and the admissions made by the petitioner, as well as the admitted position between the parties.



27. As a result, this court is of the view that no triable issues arise in the case, that would justify granting leave to defend.
28. It is also well settled that while exercising its revisional jurisdiction under section 25B(8) of the DRC Act, this court must refrain from revisiting factual conclusions or replacing the Rent Controller's assessment with its own. The limited remit of revisional proceedings under section 25B(8) of the DRC Act is pithily enunciated by the Supreme Court in *Sarla Ahuja vs. United India Insurance Co. Ltd.*<sup>3</sup>, the most relevant paragraph of which judgment reads as under:

*"6. The above proviso indicates that power of the High Court is supervisory in nature and it is intended to ensure that the Rent Controller conforms to law when he passes the order. 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 25-B. 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."*

(emphasis supplied)

29. Moreover, this court cannot turn the present revisional proceedings under section 25B(8) into appellate proceedings, since the text of section 25B(8) specifically bars any appeal or second appeal from a possession order made by the Rent Controller.
30. Thus, this court of opinion that the eviction order passed by the learned ARC *vidé* order dated 31.05.2024, when viewed from the prism of section 25B(8) of the DRC Act, is "according to law" and does not require interference by this court in its revisional jurisdiction.

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<sup>3</sup> (1998) 8 SCC 119, para 6



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31. The present petition is accordingly dismissed, observing that the respondent (landlord) is now free to enforce the eviction order immediately, since the 06-month period stipulated in section 14(7) of the DRC Act has expired, making the eviction order enforceable.
32. Pending applications, if any, are also dismissed.

**ANUP JAIRAM BHAMBHANI, J**

**JANUARY 07, 2026**