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

Date of decision: 05.11.2026

\# **CNR No. DLHC010347402025**

\+ RC.REV. 175/2025

RANI GUPTA .....Petitioner

Through: Mr. Avinash Kr. Lakhanpal, Mr. Piyush Lakhanpal, Mr. Dhiraj Kumar and Ms. Vanshita Lakhanpal, Advocates

versus

SURINDER KUMAR & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% JUDGEMENT (Oral)

CM APPL. 51792/2026 (Delay of 173 days in filing the written submissions)

1. The present Application, under Section 5 of the Limitation Act, 1963, seeks condonation of delay of 173 days in filing the written submissions by the Petitioner.

2. For the sufficient reasons stated in the Application, the delay is condoned.

3. The written submissions filed on behalf of the Applicant/ Petitioner are taken on record.

4. The Application stands disposed of.

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5. The present Revision Petition has been instituted under the

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proviso to Section 25B(8) of the Delhi Rent Control Act, 1958 ["**DRC Act**"], assailing the Judgment/Order dated 01.04.2025 ["**Impugned Order**"] passed by the learned Additional Rent Controller-01, Central District, Tis Hazari Court, Delhi ["**learned ARC**"], in ARC No. 221/2024.

6. Learned counsel appearing on behalf of the Petitioner would submit that the learned ARC has gravely erred in granting leave to defend on the premise that triable issues arose with respect to the availability of alternate suitable accommodation and the *bona fide* requirement of the Petitioner. It is contended that a bare perusal of the averments made in the Eviction Petition, read in conjunction with the Reply filed to the Application seeking leave to defend, would demonstrate that no triable issue warranting a full-fledged trial had arisen and that the learned ARC was, therefore, unjustified in permitting the matter to proceed to trial.

7. No other grounds have been urged by the learned counsel for the Petitioner.

ANALYSIS:

8. This Court has heard learned Counsel appearing on behalf of the Petitioner at length, and, with his able assistance, perused the relevant documents as well as the Impugned Order.

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

10. The contours of the aforesaid jurisdiction are well settled. The Hon'ble **Supreme** Court, in ***Sarla Ahuja v. United India Insurance***

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Co. Ltd.[1], ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***[2], and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***[3], has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

11. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in ***Pankaj Pahwa v. Prem Wati & Ors.***[4], and ***Sanjeev Hiranandani v. Sunny Grover***[5].

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

> "**23.** The proviso to Section 25-B(8) gives the High Court exclusive power of revision against an order of the learned Rent Controller, being in the nature of superintendence over an inferior court on the decision-making process, inclusive of procedural compliance. Thus, the High Court is not expected to substitute and supplant its

[1] (1998) 8 SCC 119
[2] (2014) 9 SCC 78
[3] (2022) 6 SCC 30
[4] 2024:DHC:9322
[5] 2025:DHC:11285

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> 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."

13. In ***Pankaj Pahwa*** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in ***Abid-Ul-Islam*** (supra), reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

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

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jurisdiction may be warranted.

15. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged by the learned counsel on behalf of the Petitioner against the Impugned Order are required to be examined. In this backdrop, it would be apposite for this Court to extract the relevant portion of the Impugned Order, which reads as under:

> "**BONAFIDE REQUIREMENT AND NON AVAILABILITY OF ALTERNATE ACCOMMODATION**
>
> 10. As far as the bonafide requirement and non availability of accommodation is concerned, the said issues being inter connected are taken up together. It is pertinent to note here the judgment of the Hon'ble Apex Court in Abid-ul-Islam Vs. Inder Sain Dua, Civil Appeal No. 9444 of 2016 where it was stated by the Hon'ble court that requirement is the existence of bona fide need, when there is no other "reasonably suitable accommodation". Therefore, there has to be satisfaction on two grounds, namely, (i) the requirement being bona fide and (ii) the non-availability of a reasonably suitable residential accommodation. Further, such reasonableness along with suitability is to be seen from the perspective of the landlord and not the tenant.
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> 12. Next, it is contended that alternative accommodation is available in (1) property bearing no. 2207, Kinari Bazar, Chandni Chowk, Delhi-06: (ii) property bearing no. 2195-1/2 and 2196, Kinari Bazar, Chandni Chowk, Delhi-06; (iii) property bearing no. 1653, Kinari Bazar, Chandni Chowk. Delhi-06; (iv) property bearing no. G-81 & 82, V3S Mall, Laxmi Nagar, Delhi and (v) G-36, V3S Mall, Laxmi Nagar, Delhi. In MM Quasim vs/ Manohar Lal Sharma, (1981) 3 SCC 36, the Apex Court has that the landlord does not have an unfettered right to choose the premises but merely showing that the landlord has some other vacant premises in his possession may not be sufficient to negative the landlord's claim if the vacant premises were not suitable for the purpose for which he required the premises.
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> 13. As far as shop bearing no. G-36, V3S Mall is concerned, it is admitted position that the said shop is under the occupation of a tenant and therefore, it cannot be stated to be vacant and available to the petitioner for the bonafide need. Further, with respect to property bearing no. 2195-1/2 and 2196, Kinari Bazar, Chandni Chowk, Delhi-06, it is pleaded by the respondents itself that the husband of the petitioner and her two sons are running business of M/s Fancy Lace Collection from the said premises. Therefore the

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said property also cannot be held to be suitable alternative and available to the petitioner. With respect to property bearing no. 2207, Kinari Bazar, Chandni Chowk, Delhi-06 and 1653, Kinari Bazar, Chandni Chowk, Delhi-06, It is not in dispute that the said properties are not on the ground floor. It is pertinerit to note that the tenanted premises are on ground floor. Hon'ble Apex Court in Uday Shankar Upadhyay v. Naveen Maheshwari (2010) 1 SCC 503, where it was held that it is not for the Courts to say that the landlord should shift to the first floor or any higher floor as it is well known that shops and businesses are usually conducted on the ground floor, because the customers can reach there easily. Thus, the Court cannot dictate to the landlord which floor he should use for his business and that is for the landlord himself to decide. Even otherwise, it is a well known fact that a ground floor premises is more suitable for commercial purpose than the first floor premises as it has more footfall of the customers. Further, it has been held by the Hon'ble Supreme Court in the case of Rahabhar Productions Pvt. Ltd. Vs. Rajendera Kumar Tandon 72 (1998) DLT 629 that the landlord is not disentitled from seeking recovery of the possession of a ground floor merely on the plea that he is also in possession of first floor and second floor so long as the court is satisfied with respect to the bonafide requirement of the landlord for the tenanted premises. 14. With respect to property bearing no. G-81 & 82, V3S Mall, Lomi Nagar, Delhi, it is admitted by the respondents that the said property, though, owned by the petitioner and her daughter-in-law but they are not the sole owners. As per the sale deed filed by the respondents themselves, the property is jointly owned by many persons and therefore cannot be compared with the tenanted portion of which the petitioner is the absolute owner. Further, the said shops are not vacant and under the occupation of tenant Arvind Lifestyle Brands and the Deed of Confirmation of the landlord-tenant relationship in this regard has been filed by the petitioner with the reply. Therefore, the said property also cannot be said to be vacant and available to the petitioner for the projected bonafide need.

15. Next, it is contended that the petitioner has alternative accommodation available in the subject premises itself on the ground floor in the form of shop no. 2201. It is stated that the said shop is vacant and lying closed and the respondents have also filed photographs in this regard with leave to defend application. Per Contra, It is contended by the petitioner that the business of firm Mis Fancy Lace Collection ie. partnership firm of the petitioner and her sons is being carried out from the said shop. Additionally, it is argued that the shop cannot be kept open all the time and the respondents have deliberately taken the photograph of the said shop when the petitioner or her family members were on lunch or not available due to some other ground. Further, copy of the GST

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certificate of the said firm has also been filed to show that the said shop is already occupied and business is being run from the said shop. In rebuttal of the said contention, the respondents have filed electricity bills of the said shop from April 2023 till 27.09.2024 and additional photographs to contend that the said shop is lying vacant.

16. Perusal of record shows that as per the electricity bills, which are not disputed, during the time period of roughly 18 months, the electricity consumption was only of 11 units. Thus, less than one electricity unit per month was being consumed during the said period. The said fact prima facie shows that the shop is not being used and is lying vacant. Furthermore, the respondents have also filed photographs to show that even when the shop is open, prima facie no business thereof is carried out. Moreover, perusal of record shows that as per the case of petitioner, the firm M's Fancy Lace Collection is also carrying out business from property bearing no. 2195-1/2 and 2196, Kinari Bazar, Chandni Chowk, Delhi-06. Perusal of the GST certificate shows that the address of shop no. 2201 is only mentioned as additional address whereas the principal place of business is mentioned as 2195-1/2 and 2196, Kinari Bazar, Chandni Chowk, Delhi-06. Here it is pertinent to note that in Rampar v. Ganga Devi RC (Rev.) No.271/14, it was held by the Hon'ble High Court of Delhi that where a tenant has pleaded that a shop is lying vacant, a triable issue of alternative suitable accommodation is made out

17. Further, it is also pertinent to that it is not in dispute that the husband of the daughter-in-law for whose projected bonafide need, the present petition has been filed is earning and not financially dependent upon the petitioner. In this regard, it is pertinent to refer to the judgment of Hon'ble High Court of Delhi in RC Revision no. 154/15, Babu Lal ve Mukesh Kumar, 2015 SCC Online Del 12348 whereby it has been observed that questions relating to the financial dependency of daughter-in-law cannot be decided in a summary manner, especially when prima facie the respondents/tenant has been able to raise triable issue. Therefore, as triable issue qua availability of alternative accommodation has already been made out, therefore, it is essential that the petitioner establishes genuine bonafide need and not a mere design or desire to evict the respondents on the basis of purported requirement of daughter-in-law when her husband is earning and also having properties in his name. It is trite to state that while deciding an application for leave to defend, the court is required to only see if the facts alleged in the tenant's affidavit are such that, if proved at the trial if leave is granted, the landlord would be disentitled to relief claimed, then the Controller must grant leave and proceed to hold a regular trial. Thus, the test is that if the defence raises triable issues, leave should be granted. The Hon'ble Supreme Court in

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"Inderjeet Kaur Vs. Nirpal Singh" (2001) 1 SCC 706" held that

> "As is evident from Section 25 B (4) & (5) of the Act, burden placed on a tenant is light and limited in that if the affidavit filed by him discloses such facts would disentitle the landlord from obtaining an order for the recovery of the possession of the premises on the ground specified in clause (e) of the proviso to Section 14 (1) of the Act, with which we are concerned in this case, are good enough to grant leave to defend. 18. In this regard, it is also pertinent to refer to the observations of Hon'ble Supreme Court in the case of "Precision & Engineering Works Vs. Prema Deva Niranjan Deva Tayal", (1982) 3 SCC 270, whereby it is held that the controller is not to record a finding on disputed questions of facts on the basis of his preference for one set of affidavit against other set of affidavits Thus, in the present case, it is only deemed appropriate that petitioner's projected need be tested at the touch-stone of evidence/cross-examination

> 19. In the present case, thus, there is a triable issue with respect to availability of alternative accommodation and also qua the bonafide of the petitioner. It is also pertinent to note that the petitioner/landlord had not disclosed the ownership of other properties in the same area. Though it is contended that the said properties were not suitable and/or not available but it is also undisputed that eviction order cannot be passed straightaway when details of all the properties in the same is not made by the landlord Reliance in this regard is placed upon Giri Raj va Sheela Devi, 2014 SCC Online, Del 856. A proceeding under Section 14(1)(e) read with Section 250 DRCA, being summary in nature, it is imperative that ample caution is exercised before a tenant is evicted from the premises. The legislation is enacted for the benefit of those class of landlords who genuinely require the premises for their needs and do not have any other accommodation. The requirement must be sincere and honest and not a pretense to evict the tenant."

(emphasis supplied)

16. Having considered the submissions advanced on behalf of the Petitioner and examined the reasoning adopted by the learned ARC in the Impugned Order, this Court finds that the challenge sought to be raised is essentially directed against the conclusion arrived at by the learned ARC that the defences raised by the Respondents warrant a

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full-fledged trial. The Petitioner, in substance, seeks to persuade this Court to undertake a fresh examination of the respective pleadings and the material placed on record, and thereafter arrive at a conclusion different from the one reached by the learned ARC. Such an exercise, however, would travel beyond the permissible contours of the revisional jurisdiction vested in this Court under the proviso to Section 25B(8) of the DRC Act.

17. It is pertinent to note that the learned ARC has not granted leave to defend in a mechanical or perfunctory manner. On the contrary, a perusal of the Impugned Order would demonstrate that the learned ARC has undertaken a detailed examination of the rival contentions advanced by the parties in respect of the availability of alternative suitable accommodation as well as the bona fide requirement projected by the Petitioner. The learned ARC has considered each of the properties specifically referred to by the Respondents in their application seeking leave to defend and has recorded reasons as to why the suitability, availability and nature of occupation of the said properties require examination. The learned ARC has also considered the rival stands concerning shop bearing No. 2201, including the electricity consumption reflected in the bills, the photographs placed on record, the GST registration certificate and the respective assertions regarding the nature and extent of business being carried out from the said premises. Further, the issue concerning the financial dependency of the daughter-in-law, for whose projected requirement the eviction petition has been instituted, has also been considered in the context of the material and judicial precedents relied upon by the parties.

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18. Thus, the Impugned Order reflects that the learned ARC has duly applied its mind to the principal defences raised by the Respondents and has examined whether the same disclose triable issues which would require adjudication through evidence. The fact that the learned ARC has ultimately found the said defences to be deserving of consideration at trial cannot, by itself, furnish a ground for interference in revisional jurisdiction. It is well settled that, at the stage of considering an application seeking leave to defend, the Rent Controller is not required to conclusively determine disputed questions of fact or undertake a final adjudication of the rival claims on the basis of competing affidavits and documents. The inquiry at that stage is confined to examining whether the defence disclosed by the tenant raises such issues which, if established, may disentitle the landlord from obtaining an order of eviction. Once the learned ARC, upon consideration of the material placed before it, has found that such issues arise, the appropriate course is to permit the parties to lead evidence and have their respective claims adjudicated in accordance with law.

19. This Court is, therefore, unable to accept the endeavour of the Petitioner to re-agitate, in the present proceedings, the very contentions which have already been noticed, considered and dealt with by the learned ARC in the Impugned Order. The Petitioner cannot seek to short-circuit the adjudicatory process by inviting this Court to undertake a fresh appreciation of the material and substitute its own assessment for that of the learned ARC, merely with a view to obviate the necessity of a trial. The grant of leave to defend necessarily entails that the parties would have to establish their

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respective assertions through evidence, and the mere fact that the Petitioner considers the material already available on record to be sufficient for an order of eviction cannot be a basis to deny the Respondents an opportunity to substantiate the defences which have been found to raise triable issues. In other words, the revisional jurisdiction cannot be employed as a means of preventing the matter from proceeding to trial, particularly when the learned ARC has recorded cogent reasons for permitting such adjudication.

20. It is equally significant that the Petitioner has not been able to demonstrate that the learned ARC has ignored any material consideration, proceeded on an erroneous proposition of law, or returned findings which are perverse or manifestly unreasonable. No specific infirmity in the decision-making process has been pointed out which would warrant the exercise of the limited supervisory jurisdiction of this Court. The submissions advanced on behalf of the Petitioner, at their highest, seek a reconsideration of the merits of the rival claims and an alternative appreciation of the material already considered by the learned ARC. Such an exercise is impermissible in proceedings under the proviso to Section 25B(8) of the DRC Act.

21. This Court is conscious of the fact that the proceedings contemplated under Section 25B of the DRC Act are intended to provide an expeditious remedy to landlords seeking eviction on the ground of bona fide requirement. However, the summary nature of the procedure cannot be construed to mean that a tenant must be denied leave to defend even where the affidavit discloses bona fide and substantial triable issues. The legislative scheme contemplates a balance between the expeditious adjudication of eviction proceedings

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and the necessity of permitting a defence where the statutory threshold for grant of leave stands satisfied. Therefore, once the learned ARC, upon examining the pleadings and material placed before it, has found that the issues concerning alternative accommodation and bona fide requirement require adjudication through evidence, this Court would not be justified in interfering with such determination merely because another view may also be possible.

22. In view of the foregoing discussion, this Court finds no jurisdictional error, material irregularity or perversity in the Impugned Order warranting interference in the exercise of revisional jurisdiction. The learned ARC has considered the rival contentions in detail and has furnished adequate reasons for concluding that the Respondents have raised triable issues requiring adjudication.

23. Consequently, this Court finds no merit in the present Petition and is not inclined to interfere with the Impugned Order.

24. The present Petition, along with pending Application(s), if any, stands disposed of in the aforementioned terms.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 5, 2026/rk/va

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