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

+ RC.REV. 149/2024 & CM APPL. 31072/2024

PRAVEEN KUMAR RATHOR

.....Petitioner

Through: Mr. Kailash Vasdev, Sr. Advocate
with Mr. Kunal Madan, Mr.
Gurmukh Singh Arora Ms. Neoma
Vasdev & Ms. Aastha Bhardwaj,
Advocates

versus

SIMMI MALHOTRA & ANR.

.....Respondents

Through: Mr. Akshay Makhija, Sr. Advocate
with Mr. Aadarsh Chamoli,
Advocate

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

12.12.2025

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1. By virtue of the present revision petition filed under *Section 25B* of the Delhi Rent Control Act, 1958 (*DRC Act*) read with *Article 227* of the Constitution of India, 1950, the petitioner (*landlord*) seeks the following reliefs:-

“(a) *Call for lower court records of the Eviction Petition No. E-29/20 New no.107/2020 titled Praveen Kumar Rathor Vs. Simmi Malhotra & Anr.*” pending adjudication before the Court of Ms. Arjinder Kaur, ARC-02, (Central District), Tis Hazari Courts, Delhi.

(b) *Setting aside/quash the impugned Order dated 27.01.2024 passed by Ms. Neetu Nagar, the then ARC-02, (Central District), Tis Hazari Courts, Delhi in Eviction*



Petition No. E-29/20 New no. 107/2020 titled Praveen Kumar Rathor Vs. Simmi Malhotra & Anr.”

(c) Dismiss Leave to Defend Application of the Respondents/ Tenants and allow Eviction Petition of the Petitioner thereby ordering eviction of the Respondents/ Tenants from the tenanted premises i.e. one Front Shop at Ground Floor of property no. 1442, Maliwara, Delhi shown in Green Colour and described as ‘G’ in the site plan forthwith, in the interest of justice.”

2. Though the landlord has raised various grounds in the present petition, Mr. Kailash Vasdev, learned senior counsel appearing for the landlord has primarily argued *qua* the findings, which, according to him, are perverse and against the very tenets of the DRC Act. Succinctly put, he submits that the learned Additional Rent Controller (*learned ARC*) has erred in holding that the respondents (*tenants*) were able to raise a *triable issue* with respect to the *suitability* of the subject premises, which, as per settled law, is the sole prerogative of the landlord. He further submits that the findings *qua* the aforesaid rendered by the learned ARC in *paragraph 16* of the impugned order are totally contrary to the assertions made by the landlord in the Eviction Petition.

3. Further, Mr. Kailash Vasdev submits that though the learned ARC on the one hand has observed/ held that the income of the landlord was irrelevant for deciding the Eviction Petition, however, on the other hand, he has gone onto hold that since it was the landlord’s case that he had limited income, the same was sufficient to raise a *triable issue*. Drawing the attention of this Court to *paragraph 21* of the impugned order, wherein the learned ARC has held that “... *...Therefore, the requirement of the Petitioner resting upon the financial stringencies without trial cannot be*



established in the present case... ..”, Mr. Kailash Vasdev submits that the same was beyond the purview of the learned ARC.

4. Lastly, Mr. Kailash Vasdev submits that the learned ARC has erred in holding that the party seeking leave to defend ought not be denied an opportunity to test the truth *qua* the assertions made by the landlord in cross-examination and the rival affidavit(s) may not furnish reliable evidence for concluding the point one way or the other, which again, according to him is contrary to the principles enshrined in the DRC Act.

5. *Per contra*, Mr. Akshay Makhija, learned senior counsel for the tenants submits that since the landlord, who alongwith his family, had discontinued to reside at the first floor of the property wherein the subject premises was/ is situated and had moved to a new house, leaving his old father, there is no error in the impugned order passed by the learned ARC, since no response was filed by the landlord to the said assertions.

6. Mr. Akshay Makhija then submits that since the landlord was having an adjacent shop in the same property which was leased out by virtue of a false and sham document only to create an image of deception, there is nothing wrong in the findings rendered by the learned ARC. This shows the tenants were able to raise a *triable issue*.

7. Lastly, Mr. Akshay Makhija submits that the leave to defend ought to be granted in cases wherein the issue of ‘*additional*’ requirement is professed by the landlord instead of *alternative accommodation*, which is actually what was/ is required to be adjudged by the learned ARC.

8. In support of his contentions, Mr. Akshay Makhija submits that in view of what has been held by the Hon’ble Supreme Court in ***Precision Steel & Engineering Work & Anr. vs. Prem Deva Niranjana Deval Tayal***:



(1982) 3 SCC 270 and *Inderjeet Kaur Vs. Nirpal Singh: (2001) 1 SCC 706*, the landlord was unable to make out a case for eviction of the tenants from the subject premises before the learned ARC and the impugned order is liable to be sustained.

9. A perusal of the record reveals that it was always the case of the tenant that the family of the landlord was actually residing in the very same property, and not what has sought to be pleaded now before this Court, as is apparent from their stand taken by him in his affidavit filed along with the application seeking leave to defend. The tenant is estopped from resiling from the case set up by him before the learned ARC. The relevant extract thereof is reproduced as under:-

*“7. That the petitioner has falsely alleged that the petitioner family comprise of Shri. Shyamlal (his father), Smt. Suman Rathore, Smt. Shally Rathore(Daughter) and Mr. Tanish Rathore (son) and all of them are dependent upon him. It is submitted that the Petitioner and his cited members except for his children are independent and is having regular income. It is submitted that **the petitioner’s family comprises of his wife and 2 children who is residing at Second Floor of the Property No. 1440-1442, Maliwara, Nai Sarak, Delhi-110 006, whereas the father is residing on the separate floor and is self-dependent upon his saving for his livelihood.**”*

[Emphasis supplied]

10. In fact, the same is fortified by the response thereto by the landlord, which also is reproduced as under:-

“7. The contents of para no. 7 of the affidavit are misconceived, wrong and denied. It is wrong and denied that the petitioner has falsely alleged that the petitioner family comprise of Shri. Shyam Lal (his father), Smt. Suman Rathore, Smt. Shally Rathore(Daughter) and Mr. Tanish



Rathore(son) and all of them are dependent upon him. It is misconceived, wrong and denied that the Petitioner and his cited members are independent and is having regular income. It is correct that the petitioner's family comprises of his wife and 2 children who is residing at Second Floor of the Property No.1440-1442, Maliwara, Nai Sarak, Delhi-110006, whereas father is residing on the separate floor however, it is wrong and denied that he is self-dependent upon his savings for his livelihood.”

[Emphasis supplied]

11. It is also worth noting that it is not in dispute that the very same landlord in *paragraph nos.14 to 17* of the afore-mentioned response divulged all the *alternative accommodations* available with him as also specified the reasons as to why none of them were reasonably and suitably convenient for him to use the same for the exact purpose for which he was seeking eviction of the tenants from the subject premises.

12. The above, as also taking into account the settled position of law that it is always the prerogative of the landlord to reckon the reasonableness, convenience and suitability of an accommodation to satisfy his *bona fide requirement*, over which the tenant, as also, the Court have no role to play.

13. Considering the aforesaid position, this Court is *prima facie* satisfied with the submissions made by Mr. Kailash Vasdev on behalf of the landlord, and not satisfied with the findings rendered by the learned ARC. As such, in view of what has been held by the Hon'ble Supreme Court in *Sarla Ahuja vs. United India Insurance Co. Ltd.: (1998) 8 SCC 119* and *Abid-Ul-Islam vs. Inder Sain Dua: (2022) 6 SCC 30*, the landlord has been able to make out a case for this Court to exercise revisionary jurisdiction under *Section 25B* of the DRC Act.



14. In view of the aforesaid, the present petition is liable to be allowed and the impugned order is liable to be set aside.

15. However, at this stage, learned senior counsel for the tenants, seeks, and is granted, a period of *three days* to seek instructions *qua* the feasible time period within which the tenants would vacate the subject premises and hand over peaceful physical possession thereof to the landlord, along with the terms of payment *qua* user and occupation charges for the concerned period.

16. Accordingly, renotify on 16.12.2025 at 02:30 P.M.

SAURABH BANERJEE, J

DECEMBER 12, 2025/NA