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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of Decision : 17.07.2026**

+ RC.REV. 528/2019, CM APPL. 40136/2019 (Stay), CM APPL. 26316/2025(Addl.Doc) & CM APPL. 37644/2025 (Dir.)

MUKHTAR AHMED & ANRPetitioners
Through: Counsel (Appearance not
given).
versus

MOHD FARIDRespondent
Through: Counsel (Appearance not
given).

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

% **JUDGEMENT (Oral)**

1. The present Petition has been filed under Section 25-B of the **Delhi Rent Control Act, 1958**¹, challenging the **Judgment dated 14.03.2019**² passed by the **learned CCJ-cum-ARC**³, Central District, Tis Hazari Courts, Delhi, in Eviction Petition, being E-622/2017, titled "*Mohd. Farid v. Sh. Mukhtar Ahmed & Anr.*", filed under Section 14(1)(e) of the DRC Act.

2. Learned counsel appearing on behalf of the Petitioners submits that the findings returned by the learned ARC is founded on an opinion expressed in the **Communication dated 21.04.2016**⁴, addressed to the Joint Secretary (Enemy Property Section), Ministry

¹ DRC Act

² Impugned Judgment

³ learned ARC

⁴ 2016 Communication



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of Home Affairs by the Custodian of Enemy Property for India.

3. In order to substantiate the aforesaid submission, learned counsel for the Petitioner relies upon Paragraph No. 7 of the Impugned Judgment, wherein the learned ARC has referred to 2016 communication and placed reliance upon it. Paragraph No. 7 of the Impugned Judgment reads as under:

“7. In the year 1969 Mst. Nazir Begum W/o Noor Ahmad, mother of the respondents made false complaint to the Custodian, Enemy Property for India, Mumbai making false allegation that the owner of property to which suit premises form part was owned by Shri Hamid Hussain, Qadir Hussain both sons of Altaf Hussain and Mst. Rabia Begum W/o Altaf Hussain, all Pakistani Nationals and were residing in Pakistan since 1947. It was also alleged in the letter that Mohd. Yamin had realized rent up to 1964. Mst. Nazir Begum deposited rent with the Custodian, Enemy property for India. The custodian started collecting rent from the tenant without any enquiry and declaration of property as Enemy Property. The petitioner had made a representation dated 10.02.2016 to the Joint Secretary (Enemy Property Section), MHA FFR, NDCC-II Building, Jai Singh Road, New Delhi-110001. Photocopy of representation dated 10.02.2016 is annexed as Annexure - P/6. The Delhi Branch of the office of Custodian of Enemy Property held the properties of said Altaf Hussain not be Enemy Property belonging to an Indian National. Photocopy of letter dated 21.04.2016 is enclosed as Annexure - P/7.”

4. Learned counsel for the Petitioner submits that the 2016 Communication was interlocutory in nature and only conveyed the opinion of the concerned authority and therefore does not constitute a final order determining whether the tenanted premises, *i.e.*, **one room measuring about 15'x8' with Verandah/Dallan of about 15'x8' and open courtyard measuring about 15.3'x16' at the ground floor of the property bearing No. 2012, Gali Haji Ismail, Mohalla Qabristan, Turkman Gate, Delhi – 110006⁵** could be classified as enemy property or not.

⁵ Suit Property



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5. Learned counsel for the Petitioner submits that it was only *vide* an **Order dated 11.11.2024**⁶, passed by the Ministry of Home Affairs, that a final determination came to be accorded on the representation made by the Respondent as to whether the suit property was classifiable as enemy property or not.

6. Learned counsel for the Petitioner, therefore, submits that since the entire Impugned Judgement is premised on an opinion, based on the 2016 Communication, and was rendered at an interlocutory stage, the Impugned Judgment cannot be sustained and is required to be set-aside.

7. **Per contra**, learned counsel appearing on behalf of the Respondent submits that the said opinion, at that point in time, sufficed for the purpose of passing the Impugned Judgment.

8. Learned counsel for the Respondent further submits that the 2024 Order has since been challenged by way of appropriate proceedings before this Court by the Petitioners herein. He, therefore, submits that there is no requirement for this Court to interfere at this stage and that the Impugned Judgement may be sustained.

ANALYSIS

9. This Court has heard the learned counsel of the parties and, with their able assistance, perused the material placed on record.

10. 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.

11. The contours of the aforesaid jurisdiction are well settled. The

⁶ 2024 Order



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Hon'ble Supreme Court, in *Sarla Ahuja v. United India Insurance Co. Ltd.*⁷, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁸, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁹, 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.

12. 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.*¹⁰, and *Sanjeev Hiranandani v. Sunny Grover*¹¹.

13. In *Abid-Ul-Islam* (supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25B 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.

⁷ (1998) 8 SCC 119

⁸ (2014) 9 SCC 78

⁹ (2022) 6 SCC 30

¹⁰ 2024:DHC:9322

¹¹ 2025:DHC:11285



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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.”

14. Equally, it is well settled that where the decision-making process stands materially affected by a subsequent development which has a direct bearing on the controversy and which admittedly could not have been considered by the learned ARC, the revisional Court would not be precluded from exercising its supervisory jurisdiction by remanding the matter for a fresh consideration. Such an exercise does not amount to substituting the findings of the learned ARC but merely ensures that the controversy is adjudicated on the basis of the complete factual and legal position.

15. In *Pasupuleti Venkateswarlu v. Motor & General Traders*¹², the Hon’ble Supreme Court held that where a subsequent event has a fundamental impact on the relief claimed, the Court would be justified in taking cognizance thereof in order to render complete justice between the parties. The relevant portions thereof, are reproduced herein under:

“4. We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-a-vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the

¹² (1975) 1 SCC 770



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handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice — subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognisance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed. On both occasions the High Court, in revision, correctly took this view. The later recovery of another accommodation by the landlord, during the pendency of the case, has as the High Court twice pointed out, a material bearing on the right to evict, in view of the inhibition written into Section 10(3)(iii) itself. We are not disposed to disturb this approach in law or finding of fact.

5. The law we have set out is of ancient vintage. We will merely refer to *Lachmeshwar Prasad Shukul v. Keshwar Lal Chaudhuri* [AIR 1941 FC 5 : 1940 FCR 84] which is a leading case on the point. Gwyer, C.J., in the above case, referred to the rule adopted by the Supreme Court of the United States in *Patterson v. State of Alabama* [294 US 600, 607] :

“We have frequently held that in the exercise of our appellate jurisdiction we have power not only to correct error in the judgment under review but to make such disposition of the case as justice requires. And in determining what justice does require, the Court is bound to consider any change, either in fact or in law, which has supervened since the judgment was entered.”

and said that that view of the Court's powers was reaffirmed once again in the then recent case of *Minnesota v. National Tea Co.* [309 US 551, 555] . Sulaiman, J., in the same case [*Lachmeshwar Prasad Shukla v. Keshwar Lal Chaudhuri*, (supra)] relied on English cases and took the view that an appeal is by way of a rehearing and the Court may make such order as the Judge of the first instance could have made if the case had been heard by him *at the date on which the appeal was heard* (emphasis, ours).



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Varadachariar, J. dealt with the same point a little more comprehensively. We may content ourselves with excerpting one passage which brings out the point luminously (at p. 103):

“It is also on the theory of an appeal being in the nature of a re-hearing that the courts in this country have in numerous cases recognized that in moulding the relief to be granted in a case on appeal, the court of appeal is entitled to take into account even facts and events which have come into existence after the decree appealed against.”

16. The principal controversy in the present Petition centres around the legal effect of the 2016 Communication, which forms the principal basis of the findings returned by the learned ARC. According to the learned counsel for the Petitioners, the said 2016 Communication merely conveyed the opinion of the Custodian of Enemy Property for India and did not constitute a final determination with respect to the status of the Suit Property.

17. A perusal of the Impugned Judgement indicates that the learned ARC has placed considerable reliance upon the 2016 Communication while adjudicating the Eviction Petition. However, it is equally not in dispute that, subsequent to the passing of the Impugned Judgement, the Ministry of Home Affairs has passed a final 2024 Order on the very representation which formed the subject matter of the aforesaid 2016 Communication.

18. The subsequent 2024 Order admittedly did not exist when the Impugned Judgement came to be rendered and, therefore, the learned ARC had no occasion to examine either the contents thereof or its legal consequences.

19. In the considered opinion of this Court, the subsequent 2024 Order is not merely a subsequent event simpliciter but constitutes a material development having a direct nexus with the very issue which



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formed the basis of the findings returned by the learned ARC. Whether the said 2024 Order ultimately advances the case of either party is not a question which this Court proposes to examine in the present proceedings, particularly when the said 2024 Order is itself stated to be under challenge before this Court in independent proceedings.

20. Nevertheless, the legal effect and evidentiary value of the 2024 Order, insofar as the present proceedings are concerned, deserve consideration by the learned ARC in the first instance.

21. In view of the foregoing discussion and judicial precedents, this Court is of the considered view that it would neither be appropriate nor permissible, while exercising the limited revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act, to undertake for the first time an examination of the impact of the subsequent 2024 Order upon the controversy between the parties. The ends of justice would, therefore, be better served by setting aside the Impugned Judgement and remanding the matter to the learned ARC for a fresh consideration in the light of the subsequent development and any consequential pleadings or material that may be brought on record by the parties in accordance with law.

22. Accordingly, the Impugned Judgement dated 14.03.2019 is set aside. The matter is remanded to the learned ARC for fresh consideration in accordance with law, keeping in view the observations made hereinabove.

23. The parties shall appear before the learned ARC on 27.07.2026. It shall be open to the parties to place on record such additional pleadings and documents, subject to the provisions of law and all just



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exceptions.

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

HARISH VAIDYANATHAN SHANKAR, J.
JULY 17, 2026/tk/dj/m