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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 14.08.2026

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CNR No. DLHC010271972026

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RC.REV. 205/2026, CM APPL. 40143/2026 (Stay), CM APPL. 40144/2026 (Ex.) & CM APPL. 40145/2026 (Delay of 2days in refilling the petition)

VINOD MALHOTRA & ANR.

.....Petitioners

Through: Mr. Ashok Kumar Arya and
Mr. Vijay Datt Gahtori,
Advocates.

versus

SATISH CHAND RASTOGI

.....Respondent

Through: Mr. Rajesh Baweja, Ms. Anjali
Gupta and Ms. Poonam
Kandari, Advocates.

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Revision Petition has been filed under Section 25-B (8) of the **Delhi Rent Control Act, 1958**¹, assailing the **Order dated 16.02.2026**² passed by the **learned Additional Rent Controller-02 (Central), Tis Hazari Courts, Delhi**³, in RC ARC No. 410/25 titled *Satish Chand Rastogi vs. Vinod Malhotra & Anr.* By the impugned Order, the learned ARC dismissed the Petitioners' Application seeking leave to defend and consequently allowed the Respondent's

¹ DRC Act

² Impugned Order



Eviction Petition under Section 14(1)(e) read with Section 25-B of the DRC Act, thereby holding the Respondent entitled to recover possession of **Shop No. 18A, Ground Floor, forming part of property bearing Municipal No. 1681, Bhagirath Place, Delhi-110006⁴**.

2. Learned counsel appearing on behalf of the Petitioners seeks to assail the Impugned Judgment on two specific grounds. He submits that in the conclusory part of the Impugned Order, the learned ARC has passed an Order for eviction in respect of the area shown in “red colour” in the site plan annexed with the Eviction Petition. He submits that the area in red colour also includes the attic which the learned ARC, in paragraph no. 18 of the Impugned Order, has clearly held would fall outside the purview/jurisdiction of the learned ARC.

3. He would submit that since the same amounts to a jurisdictional error the Impugned Judgment would require to be set aside. The second point that he seeks to canvass is with respect to the question of whether or not there was a *bona fide* need as was espoused by the Respondent/landlord herein and that was an alternate accommodation available to the Respondent/landlord.

4. He would submit that in view of the fact that the Respondent/landlord had let out another premises only six (06) months prior to the filing of the Eviction Petition, there was no *bona fide* need as was expressed in the Eviction Petition and as to why the premises that was let out before filing the Eviction Petition could not be used for the purposes of starting the business of the Respondents wife.

³ Learned ARC

⁴ Subject property



5. Per Contra, learned counsel appearing on behalf of the Respondent/ landlord would submit that the Petitioners herein are seeking to deceive this Court.

6. He would submit that, in fact, the attic portion was never shown in red but was shown in a different colour, being in “orange over the blue”. He would therefore submit that there is no infirmity with the conclusion drawn by the learned ARC by which it has been held that the premises which are shown in red colour in the site plan were liable to be evicted by the Petitioners.

7. He would also submit that the *bona fide* need as espoused by the Respondent herein and the objection of the alternate accommodation available thereof were dealt with in considerable detail by the learned ARC and there arises no scope for this Court to, in exercise of its revisional jurisdiction, interfere with or upset the findings thereof.

8. This Court has heard learned counsel appearing on behalf of the parties and, with their able assistance, gone through the relevant documents as also the Impugned Order.

9. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioners, 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 Co. Ltd.*⁵, *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*⁶, and, more recently, in *Abid-Ul-Islam v. Inder Sain Dua*⁷, has

⁵ (1998) 8 SCC 119

⁶ (2014) 9 SCC 78



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.***⁸, and ***Sanjeev Hiranandani v. Sunny Grover***⁹.

12. 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. 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

⁷ (2022) 6 SCC 30

⁸ 2024:DHC:9322

⁹ 2025:DHC:11285



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 jurisdiction may be warranted.

15. It is within the aforesaid limited parameters of revisional scrutiny that the grounds urged on behalf of the Petitioners against the Impugned Order are required to be examined.



16. This Court finds, as rightly contended by the learned counsel appearing on behalf of the Respondent/landlord, that the attic portion is not shown in red colour in the site plan; therefore, the contention of the Petitioners is clearly erroneous and therefore rejected. The relevant finding of the learned ARC as regards the said issue of the attic reads as under:

“18. Hence, from above discussion, it is clear that the case of petitioner is that respondents are in unlawful /unauthorized possession of attic on second floor as shown in orange over blue color in site plan. On the other hand, it is alleged by respondents that they are in lawful possession of the same. Admittedly, portion on second floor/attic in possession of respondents is not a part of tenanted portion. The said issue being civil in nature is outside the purview/jurisdiction of this court. Petitioner is at liberty to approach appropriate forum /court of competent jurisdiction for above said relief.

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17. Furthermore, the entire averments and submissions of the learned counsel appearing on behalf of the Petitioners with respect to the alleged lack of *bona fide* need in view of the alternate accommodation that was let out months prior to the filing of the Eviction Petition has been dealt with in considerable detail by the learned ARC in the following manner.

“37. Per contra, in reply to leave to defend application, petitioner has specifically denied the same and stated that the said tenant is there for more than one year now. Further admittedly the said shop is tenanted at a higher rate.

38. It is observed that petitioner cannot be expected to be causing financial loss to himself to settle his wife’s business. Respondent has failed to place on record any document to show that said premise was let out just months before filing of present petition. Since, admittedly that premise municipal no. 1681/4 was under tenancy at the time of filing of present petition, hence same was not available to petitioner for intended needs.



46 . Further, in the eviction petition, the landlord need not disclose the alternate properties available to him if he is of the view that the alternate properties are unsuitable for him. The eviction petition is not a declaration or disclosure of all the immovable assets of the landlord and then and the exercise of sifting through the ones' which are or could be deemed to be suitable as alternate accommodation. For any property to be considered alternately available, it has first to be available, i.e. in possession of the landlord and capable of being put to immediate use; thereafter only the issue of its suitability for the bona fide need arises.

The landlord's discretion and prerogative in this regard cannot be questioned, except insofar as it is not whimsical, ex facie or shockingly unreasonable. Reliance is placed upon Babu Lai vs Atul Kumar & Anr. CRP NO. 147 of 2012 passed by the Hon'ble High Court of Delhi.

50. In view of the settled legal position, it is not for the respondent to dictate to the petitioner that it should use some other accommodation for its business, even if it is indeed available with the petitioner. The tenanted premises belong to the petitioner and it is for the petitioner to see whether it is suitable for its requirement or not. It is the right of the petitioner to choose a property which is going to be more profitable and convenient for its business. If the tenanted premises is suitable as per his needs, the petitioner has every right to possess the said premises and the respondent cannot contend that the petitioner should manage his affairs otherwise. While deciding the question of bonafide requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted. In view of the above discussion, the allegation of the respondents that the petitioner has alternative suitable accommodations does not give rise to any triable issue."

18. The first ground urged on behalf of the Petitioners proceeds on an erroneous reading of the site plan as well as the findings recorded by the learned ARC. The Petitioners seek to contend that the operative portion of the Impugned Order, directing eviction from the portion shown in red colour in the site plan, would necessarily include the attic portion and, consequently, that the learned ARC has exercised jurisdiction over a portion which it had itself held to be outside its jurisdiction. This contention, however, does not find support from the



record.

19. A perusal of the site plan, as also the finding recorded by the learned ARC in paragraph 18 of the Impugned Order, makes it clear that the attic portion was separately identified and shown in “orange over blue” colour. The learned ARC has specifically recorded that the attic on the second floor was not a part of the tenanted premises and that the dispute concerning the lawful or unlawful possession thereof was civil in nature and, therefore, outside the purview of the Rent Controller. The learned ARC consequently left it open to the Respondent/landlord to approach the appropriate forum for seeking relief in respect thereof. Thus, the learned ARC did not adjudicate upon the Petitioners’ right to retain or possess the attic, nor did it direct their eviction from the said portion.

20. In these circumstances, the submission that the Impugned Order suffers from a jurisdictional error on account of the eviction order allegedly extending to the attic portion cannot be accepted. The operative direction has to be understood in the context of the subject matter of the eviction petition and the findings returned by the learned ARC on the respective portions depicted in the site plan. Merely because the operative portion refers to the portion shown in red colour, without separately reiterating the colour coding adopted for the attic, cannot result in an enlargement of the subject matter of the eviction proceedings, particularly when the learned ARC has expressly and unambiguously held that the attic was not part of the tenanted premises and was outside its jurisdiction.

21. More importantly, there is no inconsistency between the substantive findings of the learned ARC and the relief ultimately granted. The finding in paragraph 18 operates as a clear exclusion of



the attic from the adjudication undertaken by the learned ARC. Therefore, the contention of the Petitioners, if accepted, would require this Court to proceed on an assumption contrary to the express finding contained in the Impugned Order. Such an exercise is impermissible in revisional jurisdiction, particularly when no actual prejudice or enlargement of the eviction decree beyond the tenanted premises has been demonstrated.

22. The second ground urged by the Petitioners concerns the alleged absence of a *bona fide* requirement on the ground that the Respondent/landlord had let out another premises approximately six months prior to the institution of the eviction petition. According to the Petitioners, the said premises ought to have been utilised for commencing the business proposed to be undertaken by the Respondent's wife and the very fact that the Respondent had chosen to let out that premises shortly before filing the eviction petition casts doubt upon the genuineness of the requirement pleaded in respect of the subject premises.

23. This contention, however, cannot be accepted as disclosing any error warranting interference under Section 25-B(8) of the DRC Act. The issue was not only raised before the learned ARC but was specifically considered and adjudicated upon. The learned ARC, after considering the rival submissions, recorded that the premises bearing Municipal No. 1681/4 was already under tenancy at the time when the eviction petition was instituted and, therefore, was not available to the Respondent/landlord for being put to immediate use for the requirement pleaded in the eviction petition. The learned ARC further noticed that the Petitioners had not placed on record any material substantiating their assertion that the said premises had been let out



only a few months before the institution of the eviction proceedings.

24. The reasoning of the learned ARC cannot be characterised as one which is unsupported by the record or suffers from perversity. The essential consideration in determining whether an alternative premises constitutes suitable alternative accommodation is not merely the existence of another property in which the landlord may have had an interest at some point of time. The relevant enquiry is whether such premises was available to the landlord, in a meaningful and practical sense, for satisfying the particular *bona fide* requirement pleaded in the eviction petition. A premises which is already occupied by a tenant at the relevant point of time cannot, without more, be treated as accommodation immediately available to the landlord for his asserted requirement.

25. Equally, the mere fact that the Respondent/landlord had inducted a tenant in another premises prior to filing the eviction petition does not, by itself, establish that the requirement pleaded in respect of the subject premises was lacking in bona fides. The learned ARC was required to examine the circumstances in their entirety, including the status of the other premises at the time of institution of the eviction proceedings, its availability to the landlord, and the explanation furnished by the landlord for not seeking to utilise the same. The learned ARC undertook precisely such an exercise.

26. The learned ARC also considered the broader objection regarding alternate accommodation and held that the landlord cannot ordinarily be compelled by the tenant to utilise a particular premises merely because such premises is alleged to be available. The learned ARC recorded that the suitability of an alternate premises has to be examined in the context of the requirement pleaded and that the



landlord's choice cannot be displaced merely because the tenant considers another property to be a more appropriate option. The learned ARC further held that the landlord's discretion in choosing premises for his business cannot be interfered with unless the choice is shown to be whimsical, ex facie unreasonable or otherwise lacking in bona fides.

27. The aforesaid reasoning assumes significance in the context of the limited jurisdiction exercised by this Court under the proviso to Section 25-B(8). The Petitioners are, in substance, inviting this Court to reappraise the factual material and arrive at a different conclusion as to whether the Respondent ought to have utilised the other premises for the proposed business of his wife. Such an exercise would necessarily amount to substituting the view of this Court for the view taken by the learned ARC. The existence of another view, however, is not sufficient to justify revisional interference, particularly where the conclusion reached by the learned ARC is a possible and legally sustainable conclusion on the material before it.

28. It is also material that the learned ARC did not accept the landlord's case merely on the basis of a bald assertion of requirement. The learned ARC considered the specific objection regarding the other premises, its tenancy status, the alleged timing of its letting, and the question of its availability for the requirement pleaded. Having undertaken that exercise, the learned ARC concluded that the Petitioners had failed to raise a triable issue on the question of alternate accommodation.

29. Thus, the present case is materially distinguishable from a situation where the learned ARC has failed to consider a material defence or has returned a finding without examining the relevant



material. Here, the precise objection now urged before this Court was placed before the learned ARC and has been dealt with in paragraphs 37, 38, 46 and 50 of the Impugned Order. The grievance of the Petitioners is, therefore, not one of non-adjudication but essentially one concerning the correctness of the conclusion reached upon adjudication.

30. The distinction is important for the purposes of Section 25-B(8). A revisional Court may interfere where the Rent Controller has ignored a material issue, acted without jurisdiction, committed a manifest error of law, or returned a conclusion which is perverse or wholly unreasonable. However, where the learned ARC has considered the relevant issue, appreciated the material before it and arrived at a conclusion which is reasonably possible, the revisional Court cannot interfere merely because another conclusion may also be possible.

31. Tested against the aforesaid parameters, neither of the grounds raised by the Petitioners warrants interference. As regards the attic, the learned ARC expressly declined jurisdiction and left the parties to avail of their remedies before the competent forum. As regards the alleged alternate accommodation and the absence of “bona fide” requirement, the learned ARC expressly considered the objection and recorded reasons for rejecting the same. There is consequently neither an absence of adjudication nor any patent jurisdictional error or manifest illegality apparent on the face of the record.

32. It bears reiteration that the jurisdiction under the proviso to Section 25-B(8) is not intended to provide the tenant with a second opportunity to contest the factual findings of the learned ARC. The legislative scheme deliberately confines the scrutiny of this Court so



as to prevent an eviction proceeding under the summary procedure prescribed by Section 25-B from being converted into a regular appellate proceeding. Unless the Petitioners are able to demonstrate that the conclusion of the learned ARC is such that no reasonable judicial forum could have arrived at it on the material available, revisional interference would not be justified.

33. In the present case, the findings returned by the learned ARC are neither based upon an irrelevant consideration nor arrived at by ignoring a material piece of evidence. The learned ARC has considered the Petitioners' objection regarding the other premises and has furnished reasons for concluding that the said premises was not available to the Respondent for the requirement pleaded. Likewise, the dispute concerning the attic has been expressly kept outside the scope of the eviction proceedings. The Impugned Order, therefore, does not disclose any defect in the decision-making process of the nature contemplated by the proviso to Section 25-B(8).

34. In view of the foregoing discussion, this Court finds no jurisdictional error, material irregularity, manifest illegality, perversity or error apparent on the face of the record in the Impugned Order. The conclusions reached by the learned ARC are, at the very least, conclusions reasonably possible on the material placed before it. This Court, in exercise of its limited revisional jurisdiction, cannot substitute its own assessment for that of the learned ARC merely because the Petitioners seek to persuade this Court to adopt a different view on the questions of the extent of the tenanted premises, the *bona fide* requirement or the availability and suitability of alternate accommodation.

35. Accordingly, the grounds urged by the Petitioners fail to



disclose any circumstance warranting interference with the Impugned Order.

36. The present Revision Petition is, consequently, devoid of merit and is dismissed accordingly.

37. The present Petition, along with pending application(s), if any, stands disposed of.

HARISH VAIDYANATHAN SHANKAR, J

AUGUST 14, 2026/nd/va