



2026:DHC:8165



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 22.09.2026**# **CNR No. DLHC010762172025**+ **RC.REV. 305/2025, CM APPL. 62582/2025 (Stay) & CM APPL. 62583/2025 (Ex.)****MOHD. SHAFIQ**Petitioner
Through: **Mr. Yatin Sharma, Advocate.**

versus

MOHD. ARSHADRespondent
Through: **Mr. Gaurav Sindhvani, Advocate.****CORAM:**
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR% **JUDGEMENT (Oral)**

1. The present Petition, filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958¹**, seeks to assail the **Order dated 11.08.2025²**, passed by the learned **Additional Rent Controller-02, Central District, Tis Hazari Court, Delhi³** in the Eviction Petition, being **RC/ARC No. 294/2021⁴**, titled "*Mohd. Arshad vs. Mohd. Shafiq*".

2. By way of the Impugned Order, the Application seeking Leave to Defend, filed by the Petitioner, came to be dismissed and, consequently, an Eviction Order being passed in favour of the

¹ DRC Act

² Impugned Order

³ ARC

⁴ Eviction Petition



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Respondent, with respect to the tenanted premises, being **Shop ad-measuring 8.8 X 7.2 square feet on the ground floor forming part of the property No. 997-998 at Madarsa Hussain Baksh (haveli Bakhtwar Khan) Bazar, Matia Mahal, Jama Masjid, Delhi-110006⁵**.

SUBMISSIONS ON BEHALF OF THE PARTIES:

3. Learned counsel appearing on behalf of the Respondent, at the outset, submits that the present Petition has become infructuous, inasmuch as vacant and peaceful possession of the Subject Premises have been handed over by the Respondent.

4. Learned counsel for the Respondent submits that possession has been handed over in pursuance of Warrants of Possession dated 21.02.2026, issued by the learned Executing Court, while adjudicating the Execution Petition, being Ex. 426/2026. It is submitted that the said Warrants of Possession were executed by the Bailiff on 07.03.2026 and, consequently, *vide* Order dated 09.03.2026, the said Execution Petition was disposed of as satisfied.

5. Learned counsel for the Respondent, therefore, submits that the present Petition is liable to be dismissed as being rendered infructuous since it is trite law that when peaceful and vacant possession of the tenanted premises have already been handed over to the landlord in pursuance of execution proceedings, the pending Revision Petition, challenging the Eviction Order, becomes incapable of serving any useful purpose.

6. ***Per contra***, learned counsel appearing on behalf of the Petitioner, forthrightly acknowledges the fact that peaceful and vacant

⁵ Subject Premises



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possession of the Subject Premises has indeed been handed over to the Respondent, in pursuance and to the satisfaction of the Execution proceedings, however, he seeks to press upon the merits of the present Petition.

7. Learned counsel for the Petitioner, with respect to the merits of the present Petition, submits that the challenge to the present Petition is limited to one aspect only, *namely*, that the learned ARC failed to appreciate that the Will, relied upon by the Respondent to evidence his ownership and in turn, the status of being a landlord, bequeathed only half portion of the Subject Premises to the father of the Respondent, which in turn, devolved upon the Respondent.

8. Learned counsel for the Petitioner further submits that the Respondent, being entitled to only half portion of the Subject Premises, could not have individually maintained the aforesaid Eviction Petition.

9. Learned counsel for the Petitioner submits that the aforesaid ground manifestly gave rise to a triable issues, which obviated the grant of leave to defend to the Petitioner and that, accordingly, the Impugned Order is liable to be set aside.

10. ***In rejoinder submissions***, learned counsel appearing on behalf of the Respondent, controverting the submissions advanced on behalf of the Petitioner on merits, submits that the aforesaid ground, sought to be raised by the Petitioner, has already been considered and dealt with, *in extenso*, by the learned ARC.

11. Learned counsel for the Respondent submits that the Petitioner, by pressing upon the aforesaid ground, is essentially urging this Court to re-appreciate the evidence to arrive at a possible alternative



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conclusion, which, according to the learned counsel, is beyond the circumscribed scope of Revisional Jurisdiction exercisable by this Court under Section 25-B(8) of the DRC Act.

12. Learned counsel for the Respondent, therefore, in light of the foregoing contentions, submits that the present Petition is liable to be dismissed on merits as well.

13. No other submissions have been advanced by the learned counsel appearing on behalf of the parties.

ANALYSIS:

14. This Court has heard the learned counsel for the parties and, with their able assistance, perused the material available on record, including the Impugned Judgment.

15. Before proceeding to examine the merits of the challenge raised in the present Petition, this Court deems it necessary to note that the Eviction Order under challenge has, admittedly, during the pendency of the present Petition, been the subject matter of an execution proceedings, culminating in the vacant and peaceful handing over of the possession of the Subject Premises to the Respondent/Landlord.

16. The issue regarding whether Revision Petition would survive upon the handing over of possession is no longer *res integra* and has received consideration not only from the Hon'ble Supreme Court but also from several Coordinate Benches of this Court. The consistent judicial approach in such cases has been to examine whether, upon execution of the Eviction Order and delivery of possession to the landlord, the challenge survives for any effective adjudication.

17. This Court, very recently, in ***Baljeet Singh & Anr. v. Santosh***



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Bhutani⁶, pronounced on 01.09.2026, had the occasion to consider the aforesaid issue in some detail. After examining the relevant Judgments of the Hon'ble Supreme Court as well as the subsequent line of authorities of this Court, this Court delineated the circumstances in which a Revision Petition, under Section 25-B(8) of the DRC Act, challenging an Eviction Order, would cease to survive upon the Eviction Order having been satisfied in execution proceedings and possession having been delivered to the Landlord. The relevant observations of this Court in **Baljeet Singh & Anr. v. Santosh Bhutan** (*supra*) read as under:

“Legal position governing the effect of execution of an Eviction Order

50. In **N.C. Daga v. Inder Mohan Singh Rana**, the Hon'ble Supreme Court was seized of a challenge to the Judgment of this Court affirming the decision of the learned Rent Controller declining leave to defend in an Eviction Petition instituted under Section 14(1)(e) of the DRC Act. During the pendency of the said proceedings, the possession of the tenanted premises had already been taken pursuant to execution of the Eviction Order. In view of the aforesaid development during the pendency, the Hon'ble Supreme Court declined to examine the rival contentions any further, observing that, once possession had been taken pursuant to execution of the Order permitting eviction, such an exercise “*would amount to rendering a decision on a purely academic question*”. The relevant portion thereof, being Paragraph No. 6, reads as under:

“6. In view of the admitted position that pursuant to the order passed by the Rent Controller, possession has been taken on execution of the order permitting eviction, and absence of specific stand regarding implied consent it is, however, not necessary to go into the finer details and to examine the rival stand in the background of legal position as it would amount to rendering decision on a purely academic question. The appeal is, therefore, dismissed, without any order as to costs.”

⁶ 2026:DHC:7346



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51. The aforesaid principle was subsequently reiterated in the Judgement of the Hon'ble Supreme Court in **Vinod Kumar Verma v. Manmohan Verma**, where, upon being informed that possession of the premises had already been taken over by the landlord, the Hon'ble Supreme Court held that nothing further survived in the Appeals and accordingly disposed of the same as being infructuous. The aforesaid Order reads as under:

“Leave granted.

At the time of hearing of these appeals, the learned counsel appearing on behalf of the landlord-respondent submits, on instructions, that the possession of the premises in question has already been taken over by the landlord-respondent. That being the position, these appeals have now become infructuous, which have been filed against the final judgment and order dt.25.02.2008 and 28.03.2008 passed by the High Court of Delhi at New Delhi in RCR No.49 of 2007 and C.M.No.119 of 2008 (Review) in RCR No.49 of 2007, by which the Revision Petition filed by the tenant/appellant was dismissed and order of eviction was affirmed. Since the possession has already been taken over by the landlord-respondent, in our view nothing survives in these appeals and accordingly, the appeals are disposed of as infructuous.

Interim order, if any, stands vacated.

There will be no order as to costs.”

(Emphasis supplied)

52. The aforesaid principle was also directly applied by a Coordinate Bench of this Court in circumstances materially analogous to those obtaining in the present case, and the conclusion so arrived came to be affirmed by the Hon'ble Supreme Court.

53. In **Neelam Sharma v. Ekant Rekhan**, a Revision Petition arose from an Eviction Order passed under Section 14(1)(e) of the DRC Act and, during the pendency of the Revision, possession of the subject premises had been taken over by the landlord in execution proceedings. Taking note of the said subsequent development, the Coordinate Bench of this Court held that the Revision Petition had become infructuous. The relevant observation reads as under:

“15. The possession of the shop in question, admittedly, is taken over by the respondent on 30.08.2018 in execution proceedings, hence even otherwise, this petition has become infructuous.”

54. Significantly, the aforesaid Judgment was thereafter carried in challenge before the Hon'ble Supreme Court in **Neelam Sharma v. Ekant Rekhan**. The Hon'ble Supreme Court took note of the aforesaid finding of this Court and declined to interfere with the said conclusion, thereby dismissing the Special Leave Petition. The relevant portion of the Order reads as under:



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“We have heard learned counsel appearing on behalf of the petitioner.

In Paragraph 15 of the impugned judgment, the High Court has observed that the possession of the shop in question, admittedly is taken over by the respondent on 30.08.2018 in execution proceedings. Therefore, the revision before the High Court has become infructuous. In such view of the matter, we are not inclined to entertain this special leave petition.”

The special leave petition is, accordingly, dismissed. Pending application(s), if any, shall also stand disposed of.”

(Emphasis supplied)

55. Having thus noticed and considered the aforesaid Judgements of the Hon’ble Supreme Court, it would now be apposite to examine the manner in which the aforesaid principle has been interpreted, developed and consistently applied by this Court in the context of Revision Petitions arising under the DRC Act.

56. This Court is conscious of the fact that the question, at hand in the present case, has, over the years, engaged the attention of this Court on numerous occasions, resulting in a substantial and consistent body of judicial authority. It would serve little purpose to burden the present Judgment by traversing each decision rendered on the subject. The authorities noticed hereinafter are, therefore, not intended to be exhaustive, but are illustrative of the consistent judicial approach adopted by this Court and sufficiently represent the manner in which the question has been considered and dealt with in successive decisions.

57. In ***Mohd. Akram v. Nafisa Begum***, a Coordinate Bench of this Court, most recently, was faced with a similar circumstance. The said matter also arose from a Revision Petition under Section 25-B(8) of the DRC Act challenging an Eviction Order passed under Section 14(1)(e) of the DRC Act. During the pendency of the Revision Petition, it was confirmed before the Court that possession of the demised premises had already been handed over to the landlord. After noticing the Judgments of the Hon’ble Supreme Court in ***N.C. Daga (supra)*** and ***Vinod Kumar Verma (supra)***, the Coordinate Bench held that the Revision Petition had become infructuous. The relevant observations are contained in Paragraph No. 9 of the said Order, which reads as under:

“9. In view of the fact that the possession of the demised premises in terms of order dated 28.02.2025 has already been handed over to the respondent/landlord, and the aforesaid observations of the Hon’ble Supreme Court as well as view taken by learned Coordinate Bench, the present petition has become infructuous and the same is disposed of accordingly.”

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58. A similar view of taken by a Coordinate Bench of this Court in **Nathi Lal Chaurasia (since deceased through LR) v. Sushila Devi Jain & Anr.** reiterated that where an Eviction Order has gained fruition and has been implemented through execution proceedings resulting in the landlord obtaining possession in accordance with law, the Revision Petition challenging such Order becomes infructuous. The relevant portion of the said Judgement reads as under:

“15. This Court in various orders including Order dated 14.12.2023 passed in RC. REV. 335/2019 captioned Ajay Kumar v. Ranbir Singh, Order dated 06.12.2023 passed in RC. REV. 52/2023 captioned Govardhan Lal v. Smt. Vidya Rani (Deceased) Through Lrs dated 03.11.2023 passed in RC. REV. 104/2021 captioned Ram Avtar v. Smt. Anuradha Shukla has held that when a Revision Petition has been filed challenging an order of learned Trial Court which has now gained fruition and has already been implemented through execution proceedings, in such circumstances, the Revision Petition has become infructuous. In addition, it was held that once possession was taken over by the Respondent/landlord in accordance with law, the Petition becomes infructuous.”

59. Likewise, in **Gulzar Singh & Anr. (supra)**, a Coordinate Bench of this Court, upon noticing that possession of the tenanted premises had already been restored to the landlords in execution of the Warrant of Possession, held the Revision Petition to have become infructuous.

60. The Coordinate Bench, in holding so, relied upon the decision of this Court in **Om Prakash Ashok Kumar & Sons v. Ajay Khurana**, which in turn relied various Judgements and Orders of this Court, *inter alia*, in **Poonam Bangia v. Harbhagwan Dass Chandiramani**, **Mange Ram v. Rajesh Narain Goel** and **Ram Avtar v. Anuradha Shukla**. The relevant portion thereof read as under:

“4. This Court in the judgment dated 26.07.2024 passed in RC.REV. 284/2023 titled as Om Prakash Ashok Kumar & Sons V Shri Ajay Khurana held as under:-

7. The issue which needs Judicial consideration is whether the revision petition which is filed as per section 25B (8) of the Act to impugn the order of eviction as per section 25B of the Delhi Rent Control Act and if during the pendency of the revision petition, the possession is restored back to the landlord/owner, whether, in that eventuality the revision petition is maintainable or not.

8. In N. C. Daga V Inder Mohan Singh Rana 2003 (1) SCC 453 the respondent/landlord filed the petition for



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eviction primarily on the ground of bona fide requirement which was opposed by the petitioners/tenant. The eviction order was passed as per section 14(1)(e) of the Act in favour of the respondent/landlord with the direction that the possession of the tenanted premises shall not be taken before the expiry of 06 months in terms of section 14(7) of the Act. The revision petition before the High Court of Delhi was also dismissed by holding that no prima facie case was made out by the tenant. The Supreme Court dealt with the arguments raised on behalf of the landlord that the petition has become infructuous because the possession has already been taken in pursuant to the execution of the order passed by the rent controller. The Supreme Court has observed that in view of the admitted position that pursuant to the order passed by the rent controller, the possession has already been taken on execution of order permitting eviction did not examine the rival stand of the parties and accordingly dismissed the petition.

9. The Supreme Court in Vinod Kumar Verma V Manmohan Verma & Anr. in Civil Appeal No.5220-5221 of 2008 arising out of SLP (C) nos. 11268-11264/2008 vide order dated 19.08.2008 has also disposed of the appeals as infructuous as the possession of the tenanted premises was taken over by the landlord.

10. This Court in various decisions has followed the decision given by the Supreme Court in N. C. Daga V Inder Mohan Singh Rana. The Co-ordinate Bench of this Court in Poonam Bangia V Harbhagwan Dass Chandiramani in RC. REV. no.16/2021 vide order dated 22.07.2021 after following the law laid down in N. C. Daga V Inder Mohan Singh Rana, dismissed the revision petition after observing that the landlord has received the possession of the tenanted premises through execution proceedings. Another Co-ordinate Bench of this Court in Mange Ram V Rajesh Narain Goel, in RC. REV. no. 147/2021, decided on 19.03.2024 after following N. C. Daga V Inder Mohan Singh Rana and Vinod Kumar Verma V Manmohan Verma & Anr., in Civil Appeal nos. 5220-5221/2008 passed by the Supreme Court and in Poonam Bangia V Harbhagwan Dass Chandiramani in RC. REV. no. 16/2021 passed by this Court as mentioned hereinabove also dismissed the revision petition as became infructuous due to the reason that the possession of the

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subject premises has been restored to the respondent/landlord. The same view was also taken by another Co-ordinate Bench of this Court in Ram Avtar V Anuradha Shukla in RC. Rev. Bearing no. 104/2021 vide order dated 03.11.2023, the revision petition was ordered to be dismissed as the possession of the tenanted premises has already been taken by the respondent/landlord in accordance with law.”

5. Accordingly, in view of the above observations made in the judgment dated 26.07.2024 passed in RC.REV. 284/2023 and as the possession of the tenanted premises has already been restored back to the respondents/landlords in execution of warrant of possession in accordance with law, the present revision petition has become infructuous. Hence, the present petition along with pending application, stands dismissed being infructuous.”

(Emphasis supplied)

61. The aforesaid Judgments, though not exhaustive, sufficiently demonstrate the consistency with which the aforesaid principle has been recognised and applied by this Court. This consistent judicial approach leaves no room for doubt that the legal position in this regard is now well settled and can no longer be regarded as *res integra*.

Legal position emerging from the Judicial precedents

62. The legal position, therefore, which emerges from the aforesaid discussion is that, once a Eviction Order has been acted upon in accordance with law and the landlord has, pursuant thereto, obtained vacant and peaceful possession of the Subject premises, the substratum of the tenant’s challenge to such Order ceases to survive for effective adjudication.

63. In such circumstances, the Revisional Court is no longer in a position to grant any meaningful or executable relief against an Eviction Order which has already attained fruition through execution. Where no independent or surviving relief otherwise preserves a live controversy between the parties, the Revision Petition would consequently be liable to be dismissed as having become infructuous.”

18. The aforesaid principle condensed in Paragraph Nos. 62 and 63 of ***Baljeet Singh & Anr. v. Santosh Bhutan*** (*supra*), after considering a line of Judicial precedents, squarely applies to the facts of the present case. It is not in dispute that, during the pendency of the present Petition, the Eviction Order came to be acted upon in

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execution proceedings. The learned Executing Court, *vide* Order dated 21.02.2026, issued Warrants of Possession in respect of the Subject Premises, pursuant to which the Bailiff executed the said Warrants on 07.03.2026 and handed over vacant and peaceful possession of the Subject Premises to the Respondent. The execution proceedings were thereafter taken up by the learned Executing Court on 09.03.2026, when, upon perusal of the Bailiff's report, recording receipt of vacant and peaceful possession, the Execution Petition was disposed of as satisfied.

19. In these circumstances, the challenge to the Impugned Order has lost its very substratum. Any adjudication upon the correctness of the Impugned Order, in circumstances where the possession of the Subject Premises has already been delivered to the Respondent in execution thereof, would no longer result in any effective relief capable of being granted in the present proceedings.

20. Accordingly, having regard to the aforesaid admitted position, this Court is of the considered view that the present Petition, insofar as it assails the said Impugned Eviction Order, does not survive for further adjudication and is liable to be dismissed as having become infructuous.

21. Ordinarily, having arrived at the aforesaid conclusion, no further adjudication on the merits of the challenge would be warranted. However, for the sake of completeness and also since learned counsel appearing for the Petitioner has pressed the present Petition on merits and the challenge is confined to the limited issue of the Respondent's entitlement to maintain the Eviction Petition on the ground that he is stated to be the owner of only a part of the Subject



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Premises, this Court deems it appropriate to examine the merits of the present Petition as well.

22. However, 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 25-B(8) of the DRC Act.

23. The contours of the aforesaid jurisdiction are well settled. The 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 25-B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

24. 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.

25. 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,

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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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 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.”

26. In ***Pankaj Pahwa*** (*supra*), a Coordinate Bench of this Court, considering the principles enunciated in ***Abid-Ul-Islam*** (*supra*), reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25-B(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.

27. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25-B(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

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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.

28. 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.

29. For the sake of completeness and clarity, this Court also deems it apposite to reproduce the findings returned by the learned ARC, regarding to the aforesaid aspect of challenge, sought to be raised on behalf of the Petitioner. The relevant portions of the Impugned Order read as under:

“I.(a) Ownership of the petitioner over the tenanted premises :-

10.1 It has been argued by counsel for petitioner that father of the petitioner namely Sh. Wasiq became the owner of the property in question bearing no. 997-998, Haveli Bakhtwar Khan, Gali Madarsa Wali, Bazar Matia Mahal, Jama Masjid, Delhi-06 on the basis of a Will executed by Abdur Rashid in his favour. That said Will was in Urdu language and translation of the same in English language has been filed. That after death of Mohd Wasiq, the petitioner alongwith other LRs of late Mohd Wasiq became the co-owner of property in question .

10.2 On the other hand, it is submitted by counsel for the respondent that on the basis of said Will, the father of petitioner had become the owner of only half of the portion of the said property in question and not the absolute owner and again as reflected from the document issued by MCD filed by the petitioner himself, name of the mother of the petitioner is mentioned. It is further submitted that previously an eviction petition was filed by the father of the petitioner against the father of the respondent



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bearing no. E-187/98, which was dismissed by the then ARC vide judgment dated 19.07.2003 and it was recorded in the said judgment that petitioner was never the owner of property in question. That said judgment operates as resjudicata against the present case and accordingly, triable issue is there with respect to the ownership of the petitioner in the tenanted premises. Again it is further argued that as far as knowledge of the respondent, the property in question is the Custodian Property.

10.3 Heard. It is observed that law is very well settled that in an eviction petition filed by the landlord against the tenant, there is no question of absolute ownership of the tenanted premises and what the petitioner has to prove is that her title is more than a tenant. In the case titled as **Bharat Bhushan Vij Vs. Arti Teckchandani 153(2008)DLT 247** the Hon'ble Supreme Court inter-alia observed as under:-

4. The concept of ownership in a landlord-tenant litigation governed by the Delhi Rent Control Act, has to be distinguished from the one in a title suit. If the premises was let out by a person and after his death, the premises has come in the hands of beneficiary under a Will, the tenant has no right to challenge the title of such a beneficiary. If on the death of the original owner the tenant has any doubt as to who was the owner of the premises, he is supposed to file an interpleader suit impleading all the legal heirs of the deceased and ask the Court to decide as to who shall be the landlord/owner after the death of the original owner. Where no interpleader suit is filed by the tenant and the tenant continues in possession after death of the original owner without demur and without raising an objection against the person, who claims to have inherited the property under the Will, he later on cannot challenge the ownership of such a person. It is not the domain of the tenant to challenge the Will of the deceased landlord. If a landlord is able to show that there is a testament in his/her favour, he/she is deemed to have discharged his/her burden of proving the ownership under the Act. If the tenant takes a frivolous objection about ownership, such an objection cannot be entertained unless the tenant comes forward as to who was the landlord/owner of the premises and to whom he has been paying rent after the death of the original owner.

5. This Court in Ram Chander v. Ram Pyari 109 (2004) DLT 388 and Plashchemicals Company v. Ashit Chadha & Anr. : 114(2004)DLT408 have laid down the law that it was not for the tenant to challenge the Will of the landlord and any such challenge made by the tenant is a baseless and frivolous challenge. I, therefore, consider that even if

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the learned Additional Rent Controller did not dwell upon this point, such a challenge made by the tenant would not result into non suiting the landlord. Moreover, the evidence led by the landlady in this case makes it clear that she inherited the property, in question, on the basis of Will left by her father in law. There is no other person who has claimed ownership over the property and this objection was raised just for the sake of raising objection.”

10.4 Again in the case titled as “**Plastic Chemicals Company Vs Ashit Chadha & Ors. 114 (2004) DLT 408**”, the Hon’ble High Court of Delhi inter-alia observed as under:-

“4. I have heard counsel for the parties and carefully examined the judgment under challenge as also the material on record. As regards the contentions raised by counsel for the petitioner challenging the Will, the law has since been crystalised by the Supreme Court in Smt. Shanti Sharma vs. Smt.Ved Prabha, as also in Sheela and others vs. Firm Prahlad Rai Prem Prakash, . Once the landlord has been able to show that there is a testament in his favor, the landlord is deemed to have discharged his burden of ownership, vis-a-vis, the Rent Control Act. In the present case, the landlord has been able to prove that a testament has been made in his favor by the previous owner which, at best, could be challenged by the heirs of Smt. Saroj Mohan and certainly not by the tenant. In this view of the matter I hold that the objection of the petitioner herein to the maintainability of the eviction petition by the landlord is frivolous.”

10.5 In view of this legal position, let me advert to the question of ownership to the petitioner in the present case. As reflected from the translated copy of Will , filed by the petitioner, the previous owner of property in question namely Abdur Rashid had bequeathed his half share in the property in question in favour of Mohd Wasiq, who was the father of the petitioner. Now in the entire application for leave to defend, the respondent has no where pleaded if there was any other person who was the owner of property in question except the father of the petitioner. As observed above, in the case of **Bharat Bhushan Vij (Supra)**, if the father of petitioner became the co-owner of property in question, the respondent has no right to challenge the said Will. Again as discussed above, the petitioner is not required to prove the absolute title in the tenanted premises and therefore, I am duly satisfied that for purpose of present eviction petition, the petitioner has duly established his co-ownership in the property in question on the basis of Will executed in favour of his father and his father having expired.

10.6 Now law is further very well settled that any coowner can file

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an eviction petition against the tenant and all the co-owners are not required to be impleaded as petitioners. In this regard, reliance can be placed upon the judgment of *M/s Indian Umbrella Manufacturing Co. & Ors. vs. Bhagabandei Agarwalla (Dead) by LRs Smt. Savitri Agarwalla & Ors., AIR 2004 1321.* Accordingly, the plea taken on behalf of respondent that father of petitioner became the owner of only half portion of the property in question on the basis of said Will is not tenable and again non impleadment of other LRs of Mohd Wasiq is also not material for purpose of filing of eviction petition against the tenant.

10.7 Now regarding the plea of resjudicata taken by the respondent on the basis of the earlier judgment dated 19.07.2003, it is observed that firstly the provisions of CPC are not strictly applicable to the provision of section 25 B of DRC Act under which present eviction petition has been filed and in this regard reliance can be placed upon the judgment of **Prithipal Singh Vs. Satpal Singh (that through LRs) (2010) 2SCC 15.** Again it was further held by Hon'ble Apex Court in the case of **Faqir Chand Vs. Ram Rattan Bhanot 1973 RCR 221** that plea of resjudicata is not applicable in the eviction petition filed under DRC Act. Secondly, even if the plea of resjudicata is taken up for consideration, it is observed that said judgement by the then ARC was passed in the year 2003 and since thereafter, several judgment have been passed by Hon'ble Apex Court as well as Hon'ble High Court of Delhi to lay down the law that in the eviction petition the Rent Controller is not supposed to adjudicate the title of the petitioner /landlord like a civil suit for possession on the basis of title and the only fact to be appreciated is that the title of the petitioner /landlord is better than the respondent /tenant. In this regard, reference can be made to the several judgments including **Bharat Bhushan (Supra)**, which was passed in the year 2004, judgment of **Plastic Chemicals Company Vs Ashit Chadha & Ors. 114 (2004)**, and also to the judgment of **Rajendra Kumar Sharma and Ors. Vs. Lilawati and Ors 155 (2008) DLT 383.**

10.8 Regarding the plea that property is owned by Custodian of Enemy Property, it is observed that except making the vague averment, the respondent has failed to file any document in support of said plea and therefore, said plea is not tenable in any manner.

10.9 Accordingly, it is concluded that for purpose of present eviction petition, the petitioner has duly established his ownership in the property in question and there is no triable issue with respect to the ownership in the property in question raised by the respondent."

(Emphasis supplied)

30. Adverting to the facts of the present case, the challenge urged

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by the Petitioner is confined to the aspect of Respondent's alleged lack of absolute ownership of the Subject Premises. It is contended that the Respondent could not have maintained the Eviction Petition since the Will relied upon by him did not bequeath the entirety of the Subject Premises in favour of his father and, consequently, the Respondent could not claim to be the absolute owner thereof. The contention, therefore, proceeds on the premise that the alleged deficiency in the Respondent's title constitutes a triable issue within the meaning of Section 25-B of the DRC Act. This submission, however, does not inspire the confidence of this Court.

31. This Court is of the considered view that the aforesaid contention does not take into account the settled distinction between the concept of ownership in a title suit and the nature of the inquiry required in an eviction proceeding under the DRC Act. A perusal of the Impugned Order evidences that the learned ARC has rightly noticed that in proceedings under the DRC Act, the landlord is not required to establish an indefeasible or absolute title in the manner required in a suit for declaration of title. What is required to be shown is a title better than that of the tenant, coupled with the relationship of landlord and tenant between the parties.

32. In the present case, the learned ARC has examined the translated copy of the Will relied upon by the Respondent and has noted that the predecessor-in-interest, namely Abdur Rashid, had bequeathed his half share in the Subject Premises in favour of the Respondent's father, Mohd. Wasiq. Upon the death of Mohd. Wasiq, the Respondent succeeded to the property along with the other legal heirs. The learned ARC has, accordingly, concluded that the



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Respondent had established, for the purposes of the present eviction proceedings, his co-ownership in the Subject Premises.

33. The fact that the Will is stated to have bequeathed only a half share in the Subject Premises does not, by itself, constitute a triable issue so as to defeat the Eviction Petition. It is trite law that a co-owner is competent to maintain an eviction proceeding against a tenant, and the absence of the other co-owners from the array of petitioners does not, by itself, render such proceedings non-maintainable.

34. This Court also takes note of the fact that the Petitioner has not, in the Application seeking leave to defend, disclosed any competing title in himself or identified any person claiming ownership of the Subject Premises adverse to the Respondent, and the learned ARC has rightly appreciated the said aspect as well. The objection, that the Will did not confer absolute ownership upon the Respondent's father, in the absence of any competing claimant or material demonstrating a superior title in favour of the Petitioner or any third party, does not, in the facts of the present case, disclose a triable issue as to the Respondent's entitlement to maintain the Eviction Petition.

35. The Impugned Order, therefore, demonstrates that the learned ARC has considered the various objections raised by the Petitioner with respect to the Respondent's ownership, the effect of the Will, the earlier proceedings and the alleged status of the Subject Premises as Custodian property. The conclusion that the Respondent had established a title sufficient for the purposes of maintaining the Eviction Petition is neither founded upon a misdirection in law nor suffers from any apparent perversity.

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36. This Court is also conscious of the fact that in revision proceedings, the Court is not required to undertake a re-appreciation of the material relating to the title of the Respondent or substitute its own assessment for that of the learned ARC. The scope of revisional scrutiny under the *proviso* to Section 25-B(8) of the DRC Ac, as rightly raised by the learned counsel for the Respondent, remains confined to examining the legality and propriety of the decision-making process. No such infirmity is discernible from the Impugned Order.

37. Thus, even on merits, the limited challenge raised by the Petitioner does not disclose any ground warranting interference with the Impugned Order. The finding of the learned ARC that the Respondent had established the requisite ownership for the purposes of the eviction proceedings and that no triable issue arose in that regard calls for no interference.

38. However, as noticed hereinabove, the aforesaid discussion on merits is only for the sake of completeness. The more fundamental circumstance which governs the fate of the present Petition is that the Eviction Order has already been acted upon in execution proceedings and the Respondent has admittedly obtained vacant and peaceful possession of the Subject Premises. In such circumstances, the present Petition has ceased to present any surviving or effective controversy requiring adjudication.

DECISION:

39. In view of the foregoing discussion, the present Petition is dismissed.

40. The present Petition, along with pending Application(s), if any,

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stands disposed of in aforementioned terms.

41. There shall be no Order as to the Costs.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 22, 2026/tk/DJ

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