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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 19th January, 2026**Pronounced on: 8th April, 2026*

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RC.REV.248/2020 & CM APPL. 30325/2020

VED PRAKASH

.....Petitioner

Through: Mr. Rajat Aneja, Mr. Saubhagya C.
and Mr. Rishabh Mishra, Advocates.

versus

M/S GAY DRY CLEANERS & ANR.

.....Respondents

Through: Mr. Amit D. and Mr. Sohan Singh
Rawat, Advocates.
Mr. Ashutosh and Mr. Hema Singh,
Advocates for R-2(iii).

CORAM:**HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present petition under Section 25B (8) of the Delhi Rent Control Act, 1958, seeks the following prayers: -

“It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to set aside the impugned Judgment dated 31.10.2019 passed by the Court of Shri Sachin Sangwan, Additional Rent Controller (South), Saket Courts, New Delhi in the Eviction Petition bearing RC/ARC No. 6399/16 filed by the Petitioner/Landlord, titled “Ved Prakash Vs M/s Gay Dry Cleaners and Another”, in respect of the Shop bearing No. 438 comprising of the Ground Floor, First Floor and Second Floor, Leela Ram Market,



Masjid Moth, New Delhi – 110049; and to allow the Eviction Petition of the Petitioner by passing an Eviction order against the Respondents in terms of the Prayer made in the Eviction Petition, in the light of the facts and grounds explained hereinabove.

Any other relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, be also passed in favour of the Petitioner and against the Respondents."

2. The present petition assails the impugned judgment dated 31.10.2019, passed by the learned Additional Rent Controller, South District, Saket Courts (hereinafter referred to as the "**learned ARC**") in RC ARC No. 6399/2016 (hereinafter referred to as the "**eviction proceeding/eviction petition**"), whereby the eviction petition filed by Sh. Ved Prakash (hereinafter referred to as the "**Petitioner**") against M/s Gay Dry Cleaners and its managing partner, *i.e.*, Ms. Aruna Malhotra (hereinafter collectively referred to as the "**Respondents**") was dismissed.

3. At the very outset, it is pertinent to note that during the pendency of the present petition, Respondent No. 2, *i.e.*, Ms. Aruna Malhotra, had passed away on 01.04.2022 and was survived by three legal heirs (LRs). On an application, **CM No.20934/2022**, filed on behalf of the Petitioner, seeking impleadment of her legal representatives, the said LR's of Respondent No. 2 were impleaded in the present petition *vide* order dated 13.03.2023 passed by learned Joint Registrar (Judicial), only for the purposes of representing the deceased Respondent No. 2 in the present proceedings, and the amended memo of parties was taken on record.



4. Relevant facts, as stated by the Petitioner, necessary for adjudication of the present petition are as under: -

- i. The Petitioner had preferred the eviction petition before the learned ARC, seeking eviction of the Respondents from Shop No. 438, Ground Floor, Leela Ram Market, Masjid Moth, New Delhi, 110049, (hereinafter referred to as the “**tenanted premises**”). The tenanted premises forms part of Shop No. 438, Leela Ram Market, Masjid Moth, New Delhi, 110049, comprising of ground floor, first floor and second floor (hereinafter referred to as the “**subject premises**”);
- ii. The Petitioner is the owner of the subject premises and he had let out the ground floor of the subject premises, *i.e.*, the tenanted premises, to the Respondents *vide* rent agreement dated 30.01.1987 at a monthly rent of INR 500/-, excluding water and electricity charges, and a lease deed dated 18.07.1987 was also executed for a period of 5 years and on mutual consent of the parties INR 700/- rent was decided excluding water and electricity charges. It was further agreed that the rent of the tenanted premises will be increased by 10% and after every 5 years, a fresh lease deed will be made, but the Respondents had never executed the same even after the expiry of the said lease deed;
- iii. On 01.06.1987, a notice for termination of tenancy of the Respondents was sent due to breach of agreement by the Respondents, as the Respondents had constructed three concrete cement tanks and an iron *jal* of about 7 feet on the 2nd floor, and also placed a tin sheet



admeasuring 10 x 8 and had made several other modifications in the subject premises, without prior permission of the Petitioner and in clear breach of terms and conditions, as agreed between the parties in lease deed. It is the case of the Petitioner that the same had caused substantial damage to the Petitioner's property and on said account, he terminated tenancy of the Respondent by the aforesaid notice and gave them time to handover peaceful vacant possession of the tenanted premises on or before 31.07.1987 to the Petitioner. However, the Respondents neither replied to the said notice, nor complied with the same and refused to vacate the tenanted premises.

- iv. It was further stated by the Petitioner that the aforesaid termination notice was never contested, nor replied by the Respondents and the House tax of the tenanted premises was being paid by him till the filing of the eviction petition. Petitioner, again, sent a notice dated 15.10.2007, intimating the Respondents for termination of tenancy and to hand over the peaceful vacant physical possession of the tenanted premises to the Petitioner, on or before 01.12.2007 as also to supply him a copy of partnership deed which was never supplied by the Respondents, despite repeated requests. It was further the case of the Petitioner that he also requested Respondent No.2 to supply the name of the other partners and the same was never replied nor complied with.
- v. It was further the case of the Petitioner that the Respondents had failed to fulfil their contractual obligation and breached the terms of the rent agreement by raising illegal construction on the tenanted premises.



vi. Regarding *bona fide* requirement, it was averred by the Petitioner that he has a family consisting of his wife, and three sons namely, Mr. Jatinder Atri, Mr. Dara Atri, and Mr. Naveen Atri, and the Petitioner himself. The sons of Petitioner have their respective families. It was averred that Mr. Jatinder Atri is working from First Floor of the Property No. 439, measuring 22 metres approximately, and since his office was at the First Floor, he was not able to generate good income, and in order to provide his son a suitable place for running office from the ground floor, Petitioner required the tenanted premises. It was further averred that the Petitioner had no other suitable place from where his son can run his office. Therefore, the tenanted premises were *bona fide* required by the Petitioner, to provide office space to his son, so that the latter can run his office from the tenanted premises. It was further stated that the Petitioner was not in occupation and possession of any other reasonable suitable premises, and the tenanted premises were required for commercial purposes by the Petitioner.

vii. It was the case of the Petitioner that he is the owner of **Property No. 279, Masjid Moth, New Delhi**, comprising stilt parking with one room, ground floor, first floor, second floor and third floor. The occupancy status of the said property is as under:

a) Ground Floor: The left side was under the tenancy of Mr. Sanjay Srivastava. The right side was under the tenancy of Mr. Rajat Ranjan;



- b) First Floor: The right side was under the tenancy of Mr. Shahnawaz Wani, with Mr. Jatinder Atri (son of the Petitioner) as the landlord. The left side was under the tenancy of Mr. Ambuj Kumar;
- c) Second Floor: The right side is in possession of the Petitioner's son, namely Mr. Naveen Atri, being used as his residential accommodation. The left side was under the tenancy of Mr. Sohan Singh, with Mr. Dara Atri (son of the Petitioner) as the lessor;
- d) Third Floor: The right side was under the tenancy of Mr. Ghirdhar Gopal, with Mr. Dara Atri as the lessor. The left side was under the tenancy of Mr. Uma Kant Verma.

viii. The Petitioner is also in possession of **Property No. 279-A, Masjid Moth, New Delhi**, which is being used as his residential accommodation. The Petitioner resides therein along with his two sons, namely Mr. Dara Atri and Mr. Jatinder Atri.

ix. The Petitioner is also the owner of **Property No. 435, Leela Ram Market, Masjid Moth, New Delhi**. The said property is under the tenancy of Mr. Sureen Dewan by virtue of a duly executed Lease Deed dated 04.01.2016.

x. The Petitioner is further the owner of **Property No. 436, Leela Ram Market, Masjid Moth, New Delhi**. The said property is under the tenancy of Mr. Naveen Atri, son of the Petitioner, who is paying a rent of Rs. 500/- per month. It is submitted that the said tenant has further sub-let the premises with the consent of the Petitioner.



xi. The Petitioner is also the owner of **Property No. 437, Leela Ram Market, Masjid Moth, New Delhi**. The said property is in occupation of Mr. Dara Atri, son of the Petitioner, who is running his real estate business therefrom under the name and style of “V.K. Properties”.

xii. The Petitioner is further the owner of **Property No. 439, Leela Ram Market, Masjid Moth, New Delhi**. The occupancy status of the said property is as under:

a) The Ground Floor of the said property is under the tenancy of M/s Jyoti Fabricare Services Ltd.;

b) The First Floor is being used and occupied by Mr. Jatinder Atri, son of the Petitioner, who has been carrying on his real estate business therefrom since the year 2011–2012.

xiii. The Petitioner was previously the owner of **Property No. 440, Leela Ram Market, Masjid Moth, New Delhi**, however, the said property was sold to Mr. Amit Sethi by virtue of a registered Sale Deed dated 22.08.2014.

xiv. An application seeking leave to defend was preferred by the Respondents in the eviction proceedings, wherein several grounds were taken by the Respondents. The said application was allowed by the learned ARC, and thereafter, the Respondents had filed their written statement and evidence was led by both the parties in the eviction



proceedings, and consequently, the impugned judgment was passed by the learned ARC and the eviction petition was dismissed.

CONTENTIONS ON BEHALF OF THE PETITIONER

5. Learned counsel for the Petitioner had submitted that the learned ARC had failed to take into consideration the pleadings of the parties in the correct perspective. It was further submitted that the learned ARC had ignored the materials available on record, thereby exhibiting complete non-application of mind. It was further submitted that the learned ARC, while dismissing the eviction petition, had held the second and third ingredients of Section 14(1)(e) of the DRC could not be proved by the Petitioner.

6. It was contended that the Petitioner had put forth and established the *bona fide* need in respect of the tenanted premises, as he had categorically pleaded the same in the eviction petition for *bona fide* need of his son, Mr. Jatinder Atri. It was further argued that the Petitioner had put forth all the relevant material evidence before the learned ARC in order to establish that no suitable alternate accommodation was available with the Petitioner and therefore, the said requirement was *bona fide* in nature. It was submitted that the learned ARC, while passing the impugned judgment, had wrongly observed that the cause, on the basis which the *bona fide* need was pleaded, appeared doubtful and the reasoning given by the learned ARC was that the said requirement was not mentioned by the Petitioner in the eviction petition, as to when the said need for his son arose prior to filing of the eviction petition and it was submitted that an eviction petition is always filed *in*



praesenti and there was no requirement, *per se*, for the Petitioner to explain as to when such need arose for the first time, and the same can be filed at any time, whenever suitable to the Petitioner.

7. It was submitted that the learned ARC had failed to consider the fact that the son of the Petitioner was not able to generate sufficient income, while operating his real estate business from the first floor of Property No. 439, rather had observed that the son of the Petitioner was operating his real estate business from the first floor since long period of time, and no change in circumstances had been mentioned by the Petitioner for need of alternate accommodation for his son. It was further submitted that the learned ARC had wrongly casted doubts over the contentions of the Petitioner by relying on the testimony given by the Petitioner, *i.e.*, PW-1, that he did know about the income of his son and never asked about the earnings of his son.

8. It was further submitted that the learned ARC had failed to consider the evidence led on behalf of the Petitioner in the right perspective, inasmuch as, PW-2, *i.e.*, Mr. Jatinder Atri, in paragraph 9 of his affidavit, had deposed that he was struggling in his Real Estate business, as the same was being run by him from the first floor. The said paragraph is reproduced as under: -

“9. That the deponent is struggling in Real Estate business and at present is working from first floor, as it is not commercially viable, he is not able to suitably run his business and generate a good income. As the “suit premises” is more accessible to the public and also must suitable for the day to day running of business involving a lot of hustle and bustle. It is an established fact that any business run from the ground floor increases business prospects.”



9. Learned counsel further submitted that the learned ARC, while passing the impugned judgment, had wrongly observed that Property No. 436, Leela Ram Market, Masjid Moth, New Delhi, casted serious doubts on the *bona fide* requirement of the Petitioner for his son, as the said property stood in the name of the Petitioner, but the same was under the tenancy of his son, Mr. Naveen Atri, who had further sub-let the same with the consent of the Petitioner. It was contended that the Petitioner himself had not let out the said property, rather it was let out by his son. It was further submitted that the learned ARC failed to appreciate the testimonies of PW-1 and RW-1 in respect of the said property, and the same is reproduced as under: -

“Cross Examination dated 05.05.2018

I put it to you that the property bearing No. 436, Leela Ram Market, Masjid Moth, New Delhi is occupied by MJs. Aakib Chicken Point?

A. The business of Biryani is being run in the said shop. I have let out the said shop to my son Navin Atree.

Q. Since when is the business of Biryani is being run from?

A. I do not know.
It is wrong to suggest that the said business was started after the filing of the present petition.

Q. Do you know any Riaz Chicken Corner?

A. I do not know.
I do not know if at the time of filing of the present petition a restaurant in the name of Chinese express was being run from property no. 436 as I have let out this shop to my son.

Q. Does the biryani business belong to your son?



A. I do not know. Again said my son Navin Atree took my consent to give this shop on rent to someone but I do not know who is the tenant. I do not remember as to when the said consent was taken from me by my son. Naveen is my tenant in the said portion from last many years.

Q. Was any document executed between you and Navin regarding the tenancy in respect of shop no. 436?

A. No, as he is my son.
Navin is my tenant @ Rs. 500/- per month. I show all the rent received by me in my income tax return. I have not filed any of my income tax return on the record of the present petition.

It is wrong to suggest that Navin was never a tenant in shop no. 436, Leela Ram Market, Masjid Moth, New Delhi. It is wrong to suggest that I have been letting out the said shop to different tenants time to time.

The fact that Navin is my tenant has been written in my eviction petition. It is wrong to suggest that no such fact is mentioned in the eviction petition.”

10. It was further submitted that the learned ARC had failed to consider the testimony of RW-1, who had clearly deposed during her cross-examination dated 14.11.2018 that the possession of the tenanted premises was with M/s Wardrobe Dry-Cleaner since the year 2014. The relevant portion of the said cross-examination is reproduced as under: -

“...The owner of the property no. 439 is Sh. Ved Prakash petitioner herein. The possession of the property is with M/s Wardrobe Dry-Cleaner since 2014. I am not aware about the rent being paid by the tenant to the petitioner. Before 2014 the property no. 439 was lying vacant. I have never visited the property personally. The shop is adjoining to my shop.”



It was submitted that the observations of the learned ARC *qua* letting out of the said property few months prior to filing the eviction petition reflects non-application of mind. It was further submitted that the learned ARC failed to take into consideration the settled proposition of law that in the event of the landlord exercising his option to choose a particular premise on the ground of its suitability, the said decision of the landlord cannot be interfered by a tenant, as long as the decision appears to be a reasoned one.

11. Learned counsel, in support of the aforesaid, had placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Prativa Devi (Smt) v. T.V. Krishnan**¹, and particularly on the following paragraph(s): -

“1. In this appeal by special leave directed against the judgment of the Delhi High Court dated 1-5-1986 reversing the order passed by the Controller of Rents, Delhi dated 24-5-1985 directing the eviction of the respondent under clause (e) to the proviso to Section 14(1) of the Delhi Rent Control Act, 1958, the only contention is that the High Court was not justified in the facts and circumstances of the case in interfering with the order of the learned Rent Controller allowing the application made by the appellant-landlady under Section 14(1)(e) of the Act. After hearing learned counsel for the parties, we are satisfied that the contention must prevail. Although the revisional power conferred on the High Court under sub-section (8) of Section 25-B of the Act may not be as narrow as the revisional power under Section 115 of the Code of Civil Procedure, 1908, there was no ground on which the legality and propriety of the order of the learned Rent Controller could be successfully assailed. The learned Rent Controller had kept the legal principles in view and on an objective determination come to a definite conclusion that the need of the appellant of the demised premises at C-192, Sarvodaya Enclave, New Delhi for her residential use was bona fide and that she did not have any alternative accommodation available for that purpose within the

¹ (1996) 5 SCC 353



meaning of Section 14(1)(e) of the Act. The High Court ought not to have interfered under Section 25-B(8) merely on the ground that on a reappraisal of the evidence it would have come to a contrary conclusion.

2. The proven facts are that the appellant who is a widow, since the demise of her husband late Shiv Nath Mukherjee, has been staying as a guest with Shri N.C. Chatterjee who was a family friend of her late husband, at B-4/20, Safdarjang Enclave, New Delhi. There is nothing to show that she has any kind of right whatever to stay in the house of Shri Chatterjee. On the other hand, she is there merely by sufferance. The reason given by the High Court that the appellant is an old lady aged about 70 years and has no one to look after her and therefore she should continue to live with Shri Chatterjee, was hardly a ground sufficient for interference. The landlord is the best judge of his residential requirement. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own. The High Court is rather solicitous about the age of the appellant and thinks that because of her age she needs to be looked after. Now, that is a lookout of the appellant and not of the High Court. We fail to appreciate the High Court giving such a gratuitous advice which was uncalled for. There is no law which deprives the landlord of the beneficial enjoyment of his property. We accordingly reverse the finding reached by the High Court and restore that of the Rent Controller that the appellant had established her bona fide requirement of the demised premises for her personal use and occupation, which finding was based on a proper appreciation of the evidence in the light of the surrounding circumstances.

3. The learned counsel for the appellant however relies on the following observations made by a learned Single Judge (T.P.S. Chawla, J.) supposed to be based on the decision of this Court in *Phiroze Bamanji Desai v. Chandrakant N. Patel* [(1974) 1 SCC 661 : (1974) 3 SCR 267] to the effect:

“I think, the true test is whether, on an overall and reasonable view, it can be said that the landlord has suitable accommodation ‘available for his use’. In deciding this question one should certainly have regard to the fact that the landlord has no legal right



to the other accommodation, but that is only a factor and not the end of the matter.”

These observations proceed on a misunderstanding of the ratio of the decision of this Court in Phiroze Bamanji Desai case [(1974) 1 SCC 661 : (1974) 3 SCR 267] . The High Court was in error in laying down that the test is availability of alternative accommodation and not the legal right to such occupation in adjudging the bona fides of the claim of the landlord under Section 14(1)(e) of the Act. The decision of this Court in Phiroze Bamanji Desai case [(1974) 1 SCC 661 : (1974) 3 SCR 267] does not lay down any such proposition. On the contrary, this Court reversed the judgment of the Bombay High Court which proceeded upon that basis. In that case, the first floor was in occupation of the mother of the appellant as a tenant and the question was as to the availability of the Truth Bungalow which was given on leave and licence to one Dr Bharucha. The High Court came to the conclusion that the requirement of the appellant for the ground floor of the demised premises was not reasonable and bona fide since the appellant was in juridical possession of the Truth Bungalow. This Court in allowing the appeal observed : (SCC p. 668, para 8)

“Now, it is true that when premises are given on leave and licence, the licensor continues, from a juridical point of view, to be in possession of the premises and the licensee is merely given occupation and therefore, strictly speaking the High Court was right in observing that the Truth Bungalow, which was given on leave and licence to Dr Bharucha, was in the possession of the appellant.”

The Court then pointed out : (SCC p. 668, para 8)

“But for the purpose of determining whether the requirement of the appellant for the ground floor premises was reasonable and bona fide, what is necessary to be considered is not whether the appellant was juridically in possession of the Truth Bungalow, but whether the Truth Bungalow was available to the appellant for occupation so that he could not be said to need the ground floor premises. If the Truth Bungalow was in occupation of Dr Bharucha on leave and licence, it was obviously not available to the appellant for occupation and it could not be taken into account for negating the need of the appellant for the ground floor premises.”



We accordingly overrule the decision of the Delhi High Court in *Sat Pal v. Nand Kishore* [ILR 1983 Del 73] as not laying down good law.

4. In the premises, the judgment of the High Court disallowing the appellant's claim cannot be supported. In considering the availability of alternative accommodation, the Court has to consider not merely whether such accommodation is available but also whether the landlord has a legal right to such accommodation. The appellant had established her bona fide personal requirement of the demised premises under Section 14(1)(e) of the Act and her claim could not be disallowed merely on the ground that she was staying as a guest with a family friend by force of circumstances.

5. In the result, the appeal must succeed and is allowed with costs. We set aside the judgment and order of the High Court and restore that of the Rent Controller directing eviction of the respondent from the demised premises under Section 14(1)(e) of the Delhi Rent Control Act, 1958. The respondent is given four months' time to vacate the premises subject to filing of the usual undertaking within four weeks from today.”

12. It was further contended that the learned ARC had wrongly arrived at the conclusion *qua* the requirement of the Petitioner being *bona fide*, solely on the basis of the preponderance of the probabilities and erroneous consideration of the facts which were irrelevant for the purposes of adjudication of the eviction petition. It was further contended that the learned ARC had wrongly considered that the shop No. 440, Leela Ram Market, Masjid Moth, New Delhi, was available with the Petitioner at the time of sale, *i.e.*, on 22.08.2014, but the said property was sold on the ground of necessity of funds to raise for the purposes of raising construction in Property No. 279-A, Masjid Moth, New Delhi.



13. It was further submitted that the learned ARC had wrongly observed that since no document was placed on record to demonstrate whether any construction was raised on the Property No. 279-A, there was a serious doubt *qua bona fide* requirement of the Petitioner. It was submitted that Property No. 440 had already been sold by the Petitioner in the year 2014, and the same was also not disputed by the Respondents. It was further submitted that at the time of filing of the eviction petition, Property No. 440 was not available with the Petitioner. Learned counsel for the Petitioner further relied on the testimony of RW-1 during her cross-examination dated 14.11.2018, wherein it was deposed by RW-1 that Property No. 440 was purchased by Mr. Amit Kumar Sethi, four years back, from the Petitioner. Relevant portion of the said cross-examination is reproduced as under: -

“...Who is the owner of the property no. 440?

A. Some Mr. Amit Kumar Sethi is the owner of the property no. 440.

Q. Since when he is the owner?

A. The said shop was purchased by Mr. Amit Kumar Sethi four years back from Sh. Ved Prakash petitioner herein.

Q. Have you ever visited the shop no. 440 personally?

A. Yes.

Q. What is the area of the said shop no. 440?

A. The area is about the same as my shop in question property no.”



14. Learned counsel for the Petitioner, had submitted that even if another property was let out to another tenant, the said fact would not disentitle the Petitioner from seeking eviction of the Respondents from the tenanted premises. It was further submitted that the Petitioner had authorised his son, Mr. Naveen Atri, to let out Property No. 435 and utilise the rental income therefrom for his sustenance. It was further contended that the Petitioner cannot be expected to snatch away the source of livelihood from one of his sons, in order to provide accommodation to another son, and therefore, the argument of Property No. 435 being available with the Petitioner as an alternate accommodation is unsustainable.

15. Learned counsel had relied on the judgment passed by the learned Single Judge of this Court in **Anil Kumar Jain v. Subhash Chand Chawla alias Subhash Chander Chawla**², and particularly on the following paragraphs to submit that that the concept of alternative suitable accommodation is a relative and objective concept, and the same cannot be applied subjectively: -

“19. If ownership and existence of such alternative accommodations are a criterion then many landlord(s) in Delhi/ New Delhi will be precluded from initiating any claim(s) for seeking eviction(s) of his/her/their premises. Had that been the intention of the DRC Act, no landlord could/ can seek eviction of a tenant from the subject premises till he is not an owner of any alternative accommodation(s). Similarly, owning/ existence/ selling/ buying/ purchasing/ renting/ leasing/ sub-leasing/ re-letting/ licensing/ vacancy/ or like are factors which cannot debar any landlord from initiating eviction proceedings with respect to premises against a tenant if such a landlord is able to profess, and

² 2026:DHC:168



show, his need is without any malice and/ or mala fide intent. Likewise, any alternative accommodation(s) lying vacant in itself is also not a reason under the DRC Act for barring a/ the landlord to initiate eviction proceedings for vacation of a tenant from the premises.

20. At the end of the day, since the DRC Act does not, admittedly, include any of the aforesaid, it does not bar any landlord to initiate eviction proceedings against a tenant from the premises. Therefore, owning/ existence/ selling/ buying/ purchasing/ renting/ leasing/ sub-leasing/ reletting/ licensing/ vacancy/ or like of any other alternative accommodation(s) by a/ the landlord are, per se, not prima facie itself material. They can, at best, be taken as a/ the landlord having 'additional' premises, which, can per se be no substitute for the subject premises for which he seeks eviction. Since, the overall reasonableness, suitability, similarity, fairness, acceptability, adaptability, requirement, location, logistics and practicality of the landlord have a big role to play in all these, for any alternative accommodation to be considered as a replacement thereof and for it to act as a reasonably suitable accommodation in place of the subject premises, it is imperative for the tenant to show the similarity/ likeness/ connection inter se them to bring out that the need for the same professed by the landlord was/ is sham, unworthy and/ or for some ulterior motives/ purposes.

21. Needless to say, when a landlord is seeking the subject premises for a commercial purpose, what has also to be taken into account always are various external factors such as location, floor, contours, locality, position, viability, purpose, size, dimension, permissions, footfall, visibility, access, safety concerns, etc. coupled with other internal factors in the form of practicality, sustainability, possibility, capability, finances etc., as well. All these have to be cumulatively given due regard to and taken into consideration while dealing a case wherein the landlord is seeking eviction of a tenant from the subject premises for using it for his commercial gain. Reliance is placed upon *Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*¹⁵; *Viran Wali v. Kuldeep Rai Kochhar*¹⁶ and *Kanhaiya Lal Arya (supra)*.

22. Conversely, if owning/ existence/ selling/ buying/ purchasing/ renting/ leasing/ sub-leasing/ re-letting/ licensing/ vacancy/ or like



of any such alternative accommodation by the landlord are per se material considerations and the same precludes any landlord for initiating eviction proceedings qua a subject premises, then, irrespective of availability of the provision of Section 14(1)(e) of the DRC Act with the landlord, the landlord shall/ will not take recourse thereto and the tenant cannot be evicted from the subject premises. As such, the tenant in more than one ways, assumes ownership of the subject premises for eternity. Holding so, will be in stark contradistinction with the intent and purpose of the DRC Act, which is a balancing Act taking due note and care of both the landlord and the tenant. Rendering such a finding will certainly amount to a Court of Law reading into and/ or supplanting and/ or substituting its views into the provisions of the DRC Act as they are, which is impermissible and uncalled for.

23. Moreover, merely because the landlord is of a sound financial background who may be deriving income from rent from other premises in his name or has other sources of income, also do not itself mean that he is estopped from filing proceedings claiming eviction of the tenant from a/ the subject premises as though, it may be a factor, but not of so much relevance for it to be taken as the only/ vital criterion for consideration in an eviction proceedings. Eventually, the landlord has only to project his bona fide requirement for the subject premises to be such a need which is genuine and express, more than his whims and fancies and that there is a landlord tenant relationship between the *parties* and that he has no other reasonably suitable alternative accommodations available with him.

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34. Further, as held in ***Balwant Singh Chaudhary vs. Hindustan Petroleum Corp. Ltd.,¹⁸ & Yodh Raj, Satya Prakash & Sons [Firm] & Anr. vs. Narain Kumar & Sons [HUF]¹⁹*** there was no necessity/ requirement for the landlord to disclose the exact nature of business(es) which the landlord wanted to commence or the names of his relatives or other particulars while initiating proceedings for seeking eviction of the tenant from the subject premises. In any event, since this Court is dealing with a case wherein the trial has already taken place, after the application



seeking leave to defend of the tenant had been allowed, the same is hardly of any significance.

35. Also, it cannot be disputed that the landlord was/ is well within his rights to induct new tenants, be it with his own relatives, as alleged by the tenant and/ or let the other premises lie vacant. The tenant cannot supplant his case and plead the same to his convenience by taking benefit thereof. Considering that the landlord is one having numerous premises in or around the same vicinity nearby to the subject premises, there is nothing wrong for the landlord to have taken those steps qua letting out them from time to time. There is no such bar for a landlord to do so before/ during/ after pendency of an eviction proceedings. As such, the same cannot be taken/ held against the landlord.

36. Interestingly, the learned RC has, while passing the impugned judgment, dealt with factors like the family members of the landlord have not run the business themselves but instead sub-let the premises; and that the landlord was unable to show as to why the upper floors were unsuitable for his bona fide requirement; and that the other alternative accommodation in the same vicinity cannot be treated as not suitable; and that the landlord had come with unclean hands; and the landlord was "... ..creating an artificial scarcity for himself and his family members... .."; and further that the landlord had not amended his Eviction Petition "... ..to assert that the vacant shop no.33/4, Middle Circle, Connaught Place, Delhi was not sufficient for running his business... .." for dismissing the Eviction Petition of the landlord. These, in view of the aforesaid observations and analysis and the findings rendered thereto, are showcasing that the learned RC has substituted his view over that of the landlord, which is beyond the purview of the DRC Act and thus calls for setting aside of the impugned judgment.

37. More so, as held in *Baldev Singh Bajwa vs. Monish Saini*²⁰ & *Kanahaiya Lal Arya vs. Md. Ehshan & Ors.*²¹, it is not for the tenant to dictate the landlord much less the Court, for substitute its views with those of the landlord for choosing the available premises instead of the subject premises by projecting something, which, according to the landlord himself, is not reasonably suitable for him. Seeking eviction of a tenant from his own premises merely because he had/ has other premises with himself cannot amount to



the landlord "... ..creating an artificial scarcity for himself and his family members... ..", when there were sufficient reasons for him to seek eviction of the subject premises beyond the requirements enshrined in the DRC Act. Similarly, dismissing the Eviction Petition of the landlord merely because no amendment was carried out by him with respect to another premises available with him, when the same was in Middle Circle, Connaught Place and not where the subject premises was situated, was also beyond the requirements enshrined in the DRC Act. 38. As borne out from the aforesaid, the landlord was indeed able not only to show but also substantiate that he had bona fide requirement for the subject premises, and that he was sincere and honest, as also that the alternative accommodations available with him were not reasonably suitable for the purpose for which he was seeking eviction of the tenant from the subject premises. In view of the aforesaid, this Court is of the opinion that the findings rendered by the learned RC are not based on a plausible opinion as they run contrary to the tenets of the DRC Act."

16. It was further submitted that in the present case, landlord-tenant relationship and the *bona fide* requirement of the Petitioner for his son, who was operating his real estate business from the First Floor of Property No. 439, was not in dispute, and the only issue was with respect to availability of alternate suitable accommodation. It was further argued that the Petitioner cannot be expected to take possession from a tenant in an ongoing tenancy, as it would cause hardship and great financial loss to his other son.

17. It was further argued by learned counsel for the Petitioner that Property Nos. 435, 436 and 439 were in occupation of different tenants at the time of filing of the eviction petition, however, the mere fact that tenancy *qua* the said shops kept changing from time to time during the pendency of the eviction petition does not prohibit the Petitioner from seeking eviction of the



Respondents from the tenanted premises and the Petitioner cannot be expected to disrupt the income being incurred from the said tenancies.

18. Learned counsel had further placed reliance upon the following judgment(s): -

- i. **Kanahaiya Lal Arya v. Md. Ehshan**³, Para(s) 10, 11, 13 and 16;
- ii. **Kusum Lata Sharma v. Arvind Singh**⁴, Para(s) 16 to 18 and 23 to 25;
- iii. **Shiv Sarup Gupta v. Mahesh Chand Gupta**⁵, Para(s) 2 to 8, 20 to 24.

CONTENTIONS ON BEHALF OF THE RESPONDENTS

19. *Per contra*, learned counsel appearing on behalf of the Respondents submitted that the learned ARC, while passing the impugned judgment, had rightly held that the Petitioner had mentioned only one ground in the eviction petition, which had necessitated shifting of the real estate business being run by his son, and that was inadequate income generation. It was further submitted that the Petitioner in his cross-examination dated 05.05.2018 had deposed as under: -

“...I do not know about the income of Shri Jatinder Atri and never asked about the earnings of any of my sons.”

It was submitted that the Petitioner had not even deposed about the income of his son and had rather evaded the issue, and thus, the plea taken by

³ 2025 INSC 271

⁴ 2023 SCC OnLine SC 488

⁵ (1999) 6 SCC 222



the Petitioner, with respect to less income being generated by his son, was seriously doubtful.

20. It was further contended that the Petitioner had further deposed that his son, Mr. Jatinder Atri, was running his office from the first floor for the last many years, and thus, there were no changes in the circumstances, as had been mentioned by the Petitioner, which compelled the Petitioner to look for an alternative office/accommodation for his son, and thus, the *bona fide* need of the Petitioner appeared to be doubtful.

21. It was further submitted that the Petitioner did not disclose in the eviction petition the alternate properties available with him, being Property No. 279, Masjid Moth, New Delhi, admeasuring 160 sq. yd., being a four-storey building, and Property No. 279-A, as both of these properties were situated on the main road and the same could have been used for commercial purposes.

22. It was further submitted that Property No. 435 was earlier let out to *Surbhi Caterers*, and upon the said tenant vacating the said shop, the Petitioner admittedly regained vacant possession of the same. It was further contended that instead of utilizing the said shop for the alleged *bona fide* requirement, the Petitioner had re-let the same to another tenant, Mr. Sureen Dewan, *vide* lease deed dated 04.01.2016. It was further submitted that the eviction petition was filed on 07.05.2016, *i.e.*, four months after the said shop was re-let to Mr. Sureen Dewan, and thus, the Petitioner had conspicuously failed to disclose any specific time frame as to when the alleged *bona fide*



requirement for his son arose and had such *bona fide* need genuinely existed, the Petitioner would not have let out another commercial property, prior to filing the present petition.

23. It was further submitted that the lease deed dated 04.01.2016 *qua* Property No. 435 expired on 31.07.2016, meaning thereby that the said shop would have become available to the Petitioner within 3 months of filing the eviction petition. It was further submitted that despite the aforesaid, the Petitioner had deliberately chosen to institute the eviction proceedings, and the same casts a serious doubt on the genuineness and immediacy of the *bona fide* requirement.

24. Learned counsel for the Respondents further drew attention of this Court to the cross-examination dated 05.05.2018 of the Petitioner, which reads as under: -

“...I do not know the name of the tenant who is occupying the property No.435, Leela Ram Market, Masjid Moth, New Delhi. I cannot say as to when it was inducted as a tenant in the said portion

Q. Do you know Surbhi Caterers?

A. I do not remember.

Q. Do you know anything about Hangchuaa's Chinese Food Corner?

A. I cannot read the name in English. However, there is some Chinese food shop in property No.435. I do not remember since when the Chinese food corner is being run.”



It was contended that the said testimony of the Petitioner demonstrates that the Petitioner had given evasive and non-committal answers and had failed to categorically deny that after filing of the present petition, the said shop was again let out to a new tenant who is presently running a Chinese food restaurant from the said shop.

25. It was contended that the Petitioner, in the eviction petition, failed to disclose the existence of other Property Nos. 435, 436, 437, 439 and 440, Leela Ram Market, Masjid Moth, New Delhi. The details regarding these properties surfaced only after the Respondents had filed their leave to defend application before the learned ARC. It was argued that suppression of material facts is fatal to a petition under Section 14(1)(e) of the DRC Act, as the landlord is required to make full disclosure regarding availability of alternate accommodations.

26. It was further submitted that the subject premises had ground floor, first floor and second floor, however, the Petitioner had only stated his requirement for the ground floor for the alleged *bona fide* need of his son. The Petitioner had remained silent as to how the first and second floors of the subject premises would have been utilized in case eviction was granted.

27. It was further submitted that the Petitioner had also filed an eviction petition *qua* Property No. 437, Leela Ram Market, Masjid Moth, New Delhi, and the said petition was dismissed *vide* order dated 31.10.2019 by the learned ARC. It was further contended that thereafter the Petitioner allegedly



secured possession of the said property from the tenants, by paying them a substantial amount.

28. Attention of this Court was drawn to the cross-examination of the Petitioner dated 09.04.2018 wherein it was stated as under: -

“I do not remember as to when the three concrete cement tank, iron jal and tin shade on the second floor were constructed by the respondent. I do not remember the name of the advocate to whom I had got served the notice dated 01.06.1987. The said notice was sent by Regd. A.D. Post. I do not know from which post office the said notice was sent. Vol. It was posted by my advocate. It is wrong to suggest that no notice dated 01.06.1987 was ever sent to the respondent. It is wrong to suggest that no rent agreement dated 30.01.1987 was ever executed between the parties. It is wrong to suggest that no lease deed dated 18.07.1987 was entered into between the parties. It is wrong to suggest that it was never agreed between the parties that the rent would be increased by 10% and after every five years a fresh lease deed would be executed. It is wrong to suggest that the tenancy was orally created. It is wrong to suggest that the respondents did not carry out any modification in the premises let out to them.”

29. Attention of this Court was further drawn to the Cross-Examination of the Petitioner dated 05.05.2018, wherein it was stated as under: -

“I have been issuing rent receipts in respect of shop no. 436 to Sh. Navin Atree. (Vol- Since, many years, he has not been paying rent to me). I have not filed any such rent receipt on the record of present petition. I do not remember that Sh. Jitender Atree has started his office of real estate since beginning at 439 Leela Ram Market, Masjid Moth, New Delhi. I do not remember Sh. Jitender Atree has his office at any other place or not.

The area of no. 435 is approximately 33 sq.mtr., no. 436 & 439 are about 31-31.5 sq.mtr. each, no. 440 I do not know the area. I do not know the area of shop no. 437 & 438. I do not about the



area of the first floor of 439. Again said it may be about 20-22 sq.mtr.

It is wrong to suggest that the first floor of property no. 439 is sufficient and suitable for the purposes of the office of Sh. Jitender Atree. It is wrong to suggest that the properties bearing no. 279 and 279-A Masjid Moth are also sufficient and suitable for the office of real estate business. It is wrong to suggest that Sh. Jitender Atree is earning handsomely from his business. It is wrong to suggest that for an office of real estate it is not necessary that the office should be on ground floor only. It is wrong to suggest that no premises are required for the office of Sh. Jitender Atree.

It is wrong to suggest that I had been calling upon the respondents to increase the rent about Rs.25,000/- per month. It is wrong to suggest that property no. 79, masjid moth is lying vacant in my possession. It is wrong to suggest that no premises are required by me as mentioned in the petition. It is wrong to suggest that I had been letting out different properties from time to time as I did not require any premises for Jitender Atree. It is wrong to suggest that Sh Jitender Atree has no intention of shifting his office from the first floor of property no. 439. It is wrong to suggest that my petition is false and malafide. It is wrong to suggest that shop no. 436 has always been let out by me from time to time.

It is wrong to suggest that I am deposing falsely.”

30. Reliance was further placed on the judgment passed by the learned Single Judge of this Court in **Sh. Sanket Behari Mittal v. Sh. Subhash Chand Gupta**⁶ and particularly on the following paragraph(s): -

“18. Further, no doubt, as held in *Shiv Sarup Gupta (supra)* the landlord is the best judge of his needs, it has also been held therein that the need urged by the landlord must be genuine, sincere, honest, natural, and the like. In fact, as also held by the Hon’ble Supreme Court in *Sarvate T. B. v. Nemichand*⁷ and *Dattatraya Laxman Kamble v. Abdul Rasul Moulali Kotkunde*⁸, should there

⁶ 2026:DHC:156



arise any suspicion/ doubt in the mind of the Court as to the genuineness of the *bona fide requirement* urged by the landlord, the burden is upon the landlord to clear all such doubts. Clearly, the landlord herein has not been able to discharge the said burden.”

31. Learned counsel for the Respondents had further placed reliance upon the judgment passed by the learned Single Judge of this Court in **Kanta Gupta v. Goverdhan Dass Daga (Deceased) Thr Lrs**⁷ and particularly on the following paragraph(s):

“7. The core issue in the present cases being concealment of vital facts, it needs to be understood that not every failure to disclose facts amounts to concealment. It is non-disclosure of only the vital facts, which is tantamount to concealment. The test is as to whether the court would have allowed the petition or plaint, as the case may be, on the basis of incomplete facts, had the respondent or defendant, as the case may be, had not appeared or not contested the proceedings. In a case where the respondent/defendant on appearing before the court discloses certain vital facts which would non-suit the petitioner/plaintiff and which facts were not disclosed in the originally filed petition/plaint, it would be a case of concealment. Such concealment, being a fraud attempted on a court vitiates any order which could be obtained by the petitioner/plaintiff in such proceedings.

8. The requirement of tenanted premises by the landlord approaching the court under Section 14(1)(e) of the Act has to be bona fide requirement and not a mere fanciful desire or evil design to recover possession of the tenanted premises with an object to make unjust financial gains. Concealment of vital facts is anathema to bona fide. In case, the landlord is found to have concealed vital facts, the requirement of tenanted premises projected by him cannot be accepted as a bona fide requirement.

9. In the present cases, the petitioner/landlord did not disclose in her eviction petitions, vital facts on the nature and expanse of

⁷ 2024:DHC:1122



business of her son and availability of a number of other premises from where her son could start or expand his business. Had the respondents/tenants failed to appear and/or failed to timely file applications for leave to contest, disclosing those vital facts, the eviction petitions would have been allowed. Merely because during trial, those vital facts came up before the court, it cannot be said that the petitioner/landlord had not concealed those facts in the eviction petitions.

XXX

XXX

XXX

11. Paragraph 8 of the eviction petitions to be filed under Section 14(1)(e) of the Act mandates the landlord to truly and completely disclose details of the accommodation available alongwith the site plan. In the eviction petition, from which RC Rev 130/2020 arose, the petitioner disclosed the said accommodation in paragraph 8 as only one shop and in the eviction petition from, which RC Rev 131/2020 arose, the petitioner disclosed the said accommodation as only one godown. None of the portions of ground floor or first floor which were already vacated by other tenants was disclosed. The petitioner/landlord did not even disclose about availability of four floors in the said larger premises.”

32. It was further submitted that the learned ARC had rightly dismissed the eviction petition, mentioning that a landlord is bound to give satisfactory explanation for not occupying any other premises belonging to him that have fallen vacant shortly before a petition for recovery of possession is filed. It was submitted that the Petitioner had failed to give satisfactory explanation regarding such properties, and hence the present petition is liable to be dismissed.

FINDINGS AND ANALYSIS

33. Heard learned counsels for the parties and perused the records.



34. Learned ARC while dismissing the eviction petition filed on behalf of the Petitioner, observed as under: -

“Bonafide Need Of The Petitioners/Alternative suitable accommodation

Both of said ingredients are taken up together being interrelated as filing of petition despite having suitable alternative accommodation itself creates doubt on the bonafides of the petitioner.

As per respondent, the petitioner has various other commercial properties i.e. 279 and 279A, Masjid Moth and the properties bearing no.435, 436, 439 and 440, Leela Ram Market, Masjid Moth. Counsel for respondent has submitted that as per petitioner his son Jatinder Atri is working from the first floor of property no. 439 and since the office is at first floor, hence he is not able to generate good income. The Counsel has submitted that business of property dealing is unlike any retail business which is effected by the visibility/access from the road. It is submitted that real estate business is consultancy based and depends upon the goodwill of the consultant and the efforts made by him. It is submitted that only a generic ground has been raised regarding low income due to working from the first floor. It is submitted that moreover it is not mentioned since when the said need was felt/arose for shifting the office of Naveen Atri as number of properties were let out and even sold few months prior to filing the petition and even during the pendency of the petition. I have considered the submissions. Indeed property consultancy business is not a retail business, nonetheless, the said ground itself does not debar the petitioner to shift his son to a ground floor premises as ground floor premises are better suited for any business as compared to the first floor. However, there appears substance in the other submissions of the Counsel for respondent. Reasons for same are discussed in succeeding paras.

The petitioner has mentioned only one ground which has necessitated shifting of business of his son i.e. inadequate income generation. However, in his cross examination PW1 has deposed that



"I do not know about the income of Sh. Jitender Atri. I never asked about the earnings of any of my sons." Thus, petitioner has not even deposed about the income of his son/deficiency in the same and has rather evaded the issue. Thus, the pleading of petitioner regarding the low income of his son due to running of business from the first floor is seriously doubtful. Moreover^ petitioner has deposed that his son Jitender Atri is having his office on the first floor for last many years. He has even deposed that Jitender Atri is his eldest son and always been in the business of real estate. PW2 Jatinder Atri has specifically deposed that "I am doing the real estate business since 2011-12. I am doing the real estate business from 439, first floor, Masjid Moth, New Delhi 110049 since inception of the business till now". Therefore, it is clear that Jitender Atri has been running his business from the first floor since long back but no change of circumstances have been mentioned that compelled the petitioner to look for alternative office for his son. As pointed out by the Counsel for respondent, no time frame have been mentioned during which the income of Jitender Atri nose dived, nor it is the case of petitioner that Jitender Atri was not having good income from day one due to running his office from the first floor. Accordingly, the cause on the basis of which the bonafide need has been pleaded appears doubtful.

As far as the alternative properties are concerned, the respondent has claimed property no. 279 and 279A, Masjid Moth as commercial but on the other hand petitioner has claimed the same as residential only. However, during her cross examination RW1 deposed that "it is correct that the family of Mr. Ved Prakash is residing in the properties 279 and 279A, Masjid Moth. It is correct that both the properties are occupied and. not lying vacant." Thus, irrespective of status of said properties, respondent has admitted non-availability of same. Therefore, said properties cannot be considered as a suitable alternative accommodation u/s 14(1) (e) of DRC Act.

In regard to the other properties, it is alleged by the respondent that the property no. 435 was let out to Surbhi Caterers and the petitioner was put back in the vacant possession thereof and the petitioner has re-let the property to another tenant. On the other hand, the petitioner has claimed that the said shop is under tenancy of Sureen Dewa vide lease deed dated 04.01.2016. I have considered the submissions and evidence of both parties on said issue. However,



even if the statement of petitioner is considered as true same creates a doubt on the bonafides of petitioner. As per petitioner, his son requires the suit premises since he is unable to generate sufficient income from his business as it is being run from first floor. As pointed out earlier, no time frame has been mentioned when such bonafide requirement was felt or arose. Same is crucial as the petition was filed on 07.05.2016 i.e. after about four months of letting out the aforesaid shop. Thus, if the bonafide need for the suit premises was there the petitioner would not have let out his other property on rent. Moreover, the lease deed shows that the lease was to expire on 31.07.2016. Thus, said shop would have been available to the petitioner within three months of filing the present petition. Yet petitioner chose to file the present petition. Even otherwise, during his cross examination PW 1 has deposed "I do not know the name of the tenant who is occupying the property no.435, Leela Ram Market, Masjid Moth, New Delhi. I cannot say as to when it was inducted as a tenant in the said portion."

Q. Do you know Surbhi caterers?

A I do not remember. Q. Do you know anything about Hangchuaa's Chinese Food Corner?

A I cannot read the name in English. However, there is some Chinese food shop in property no.435. I do not remember since when the Chinese food corner is being run". Thus, the petitioner has given evasive answers and has failed to affirmatively depose that petitioner has not let out the property to a new tenant who is now running a restaurant of Chinese Food as claimed by the respondent. Thus, it is doubtful whether the property no.435 did not become available to the petitioner after filing of the present petition.

In regard to property no.436, the respondent has claimed that same was let out in 2015 but was vacated in or around October, November, 2016 and petitioner got the vacant possession of the said property. As per respondent, the petitioner re-let the property to a new tenant who was carrying business in the name of Ms Riyaz Chicken Corner. However, even said tenant vacated the property in or around April, 2017 and thereafter petitioner re-let said house to a new tenant who is running a business under the name Ms Akib Chicken Point. On the other hand, petitioner has not specifically



disputed the said letting out and has rather stated that said shop is in his name but is under the tenancy of his son Naveen Atri who has sub-letted it further with his consent. I have considered the pleadings and evidence in regard to said shop. Firstly, the petitioner has not filed a single document regarding the alleged tenancy to his son Navin Atri. Secondly, by the conduct of petitioner, said pleading appear improbable because generally a man treats his son alike. Thus, if the petitioner is allowing his other sons to use his properties gratuitously then it is highly doubtful as to why he will let out his property to one of his sons. More so, petitioner has claimed that his family consists of his wife and three sons including Navin Atri thereby implying that all of the sons are part of his family and that Navin Atri is not separate from his family. Thirdly, during his cross examination the petitioner has deposed that since many years Navin Atri has not been paying rent to him. This fact further creates doubt in the claim of petitioner that he has consented to further sub-letting by his tenant when the tenant himself was not paying rent to him. Fourthly, even if the said contention of petitioner is deemed to be correct still the petitioner has stated that his son Navin Atri sub let the property further with "his consent". This shows that despite the existence of bonafide requirement of his other son the petitioner allowed the further subletting of his ground floor properties. This fact creates serious doubt in the bonafide requirement of the petitioner for his son and goes to the root of the matter.

Further, respondent has claimed availability of shop no.439 with the petitioner stating that same was earlier let out in 2013 and then in beginning of 2014 and even recently it has been let out to a tenant who is running dry cleaning business from there under name of "Wardrobe". On the other hand, petitioner has claimed that said shop is under the possession of Jyoti Fabricare Services Limited vide lease agreement dt. 03.08.2015. I have considered the submissions and the evidence in regard to said shop. Firstly the petitioner has failed to prove the said lease agreement as the original was never produced. Secondly, even if said agreement is considered, same is of 03.08.2015 i.e. nine months prior to filing the present petition. As pointed out earlier no time frame has been mentioned by the petitioner as to when the need for the suit premises arose. Even in the replication there is no averment that there was no need for the suit premises when the aforesaid agreement was executed. Thus, -



letting out of other properties few months before filing of the petition cast a shadow of doubt on the bonafides of petitioner.

The respondent has further referred to shop no.440 being sold by petitioner to Sh.Amit Kumar Sethi about three years ago and handing over the vacant possession of the complete property at the time of sale deed. On the other hand, the petitioner has deposed that vide sale deed dated 22.08.2014 he sold the said shop to Amit Sethi as he was in need of money for the construction of house no. 279A. I have considered the submissions and the pleadings regarding said shop. As pointed out earlier no time frame have been mentioned by the petitioner when the need for suit premises arose. The copy of aforesaid sale deed filed by the petitioner himself shows that the physical vacant possession was delivered by the petitioner to the vendee. Thus, the said property was available to the petitioner at the time of the sale. The petitioner has tried to explain the same on the-ground of necessity for funds to raise construction of 279A. However, during his evidence petitioner has not even mentioned about said fact in his affidavit of evidence. No document have been filed to show that any construction whatsoever was raised on property no. 279A after execution of the aforesaid sale deed. Thus, petitioner has failed to lead any documentary or even oral evidence in support of aforesaid pleading. During his cross examination petitioner even failed to tell the area of the plot on which property no.27A, Masjid Moth has been constructed. Thus, it is seriously doubtful as to whether such construction was raised after the sale of the aforesaid shop. Thus, bonafides of petitioner gets further shrouded by more doubts.

A landlord is bound to give satisfactory explanation for not occupying any other premises belonging to him that have fallen vacant shortly before a petition for recovery of possession is filed or while it is pending (P. S. Devgun v. S. P. Walia 1975 RLR (Note 71) 63; Satyapal v. Smt Parsani Devi 1974 RCR 508). However, in the present case, the petitioner-landlord failed to give satisfactory explanations regarding such properties.

Therefore, in view of aforesaid discussion, the second and third ingredients of section 14(1) (e) of DRC Act could not be proved by the petitioner.



In view of aforesaid discussion, the petition of the petitioner is dismissed.”

(Emphasis Supplied)

35. Although, the Petitioner in his submissions before this Court had given the status of other properties, which has been mentioned hereinbefore, but at the time of filing of the eviction petition, no details were given by him, however, the same were disclosed by him in the reply to the leave to defend application.

36. It is pertinent to note that an application seeking leave to defend was preferred by the present Respondents before the learned ARC, and *vide* order dated 24.07.2017 leave to defend was granted by the learned ARC, by observing as under: -

“12. As far as first ingredient is concerned, there is no dispute between the parties that petitioner is the landlord of the suit premises. The Bonafide need in the present case is that property is required by petitioner's son namely Jatinder Atri on ground that the ground floor in which the respondent is doing their business is more suitable than first floor of the suit property whereas Jatinder Atri is already doing business of property dealing from the first floor of property no 439 in the same market. The business is of property dealing which may be done even from the first floor. To my mind this itself is a triable issue, whether the petitioner has any genuine need of bonafide need of the ground floor or whether it is mere wish or desire because his son Jitender Atri is already running his office from the first floor of the suit property and the petitioner has to prove this fact that in what manner the prospect of business will increase, if the son of the petitioner shifts on the ground floor of the suit property. As his son is doing the business of property dealing which is kind of business which may not require frequent visitors or customers/clients. Secondly, the petitioner had admittedly also rented out various properties and sold out properties in the year 2014, 2015 & 2016 which itself



raises triable issue that when these properties were available to the petitioner, then why he has not given it to his son Jatinder Atri so that he could have shifted himself to the ground floor.”

(Emphasis Supplied)

37. Thus, it is a matter of record that the sole ground for filing the eviction petition with regard to the tenanted premises was that the same was required for the office of the son of Petitioner, Mr. Jatinder Atri, who was working on the first floor of Property No. 439, admeasuring approximately 22 metres, and since the same was situated on the first floor, he was not able to generate good income. Learned counsel for the Petitioner had argued that the learned ARC erred in observing that the said requirement was not *bona fide*, as the Petitioner in his cross-examination or otherwise was not able to demonstrate as to when the need for the Petitioner’s son had arisen prior to filing of the petition. It was contended that the eviction petition is always filed in *praesenti*, and therefore there was no requirement for the Petitioner to demonstrate as to when the need for his son’s office to be on the ground floor had arisen.

38. There is no doubt that the eviction petition is filed in *praesenti* and the need for *bona fide* requirement can arise at any stage before filing of the eviction petition, however, once a specific stand has been taken by the Petitioner for the purposes of filing of the eviction petition under Section 14 (1) (e) of the DRC Act, then the burden to prove the same would fall upon the Petitioner. It had come on record that the Petitioner’s son, Mr. Jatinder Atri, for whose benefit the tenanted premises was sought, had been engaged in the profession of property dealing since the year 2011–2012. It is also matter of



record that he has been running his office from Property No. 439, First Floor, Masjid Moth, New Delhi, since the very inception of his business, till the filing of the present petition. In these circumstances, it was incumbent upon the Petitioner to show that the ground for which eviction was sought was a genuine one.

39. Hon'ble Supreme Court in **Rahabhar Productions (P) Ltd. v. Rajendra K. Tandon**⁸, had observed and held as under: -

“18. The phrase “bona fide need” or “bona fide requirement” occurs not only in the Delhi Rent Control Act but in the Rent Control legislation of other States also. What is the meaning of this phrase has been considered innumerable times by various High Courts as also by this Court and requires no citations to explain its legal implications. Even then reference may be made to the decision of this Court in *Ram Dass v. Ishwar Chander* [(1988) 3 SCC 131 : AIR 1988 SC 1422] , in which it was indicated that “bona fide need” should be genuine, honest and conceived in good faith. It was also indicated that landlord's desire for possession, however honest it might otherwise be, has, inevitably, a subjective element in it. The “desire” to become “requirement” must have the objective element of a “need” which can be decided only by taking all relevant circumstances into consideration so that the protection afforded to a tenant is not rendered illusory or whittled down. These observations were made in respect of the provisions contained in E.P. Urban Rent Restriction Act, 1949.”

40. In the present case, the observations of the learned ARC with respect to the fact that in his cross-examination the Petitioner had feigned ignorance with regard to the income of his son, as well as other evasive answers, clearly points out that the ground taken in the eviction petition was not genuine. The petitioner could not explain the circumstances which were put to him during

⁸ (1998) 4 SCC 49



cross-examination, and therefore, the *bona fide* requirement is doubtful. Coupled with the fact that despite Property No. 435 being available with the Petitioner, 4 months before filing of the eviction petition, the Petitioner could not give any satisfactory explanation as to why the said shop was not utilised by his son Mr. Jatinder Atri for running his office. It has also come on record that the lease of the said shop was to expire on 31.07.2016, and therefore, the same would have been available to the Petitioner within 3 months of filing of the eviction petition, but again, no reasonable explanation could be given by the Petitioner as to why the same was not suitable for the Petitioner's son's office.

41. Similarly, with respect to Property No. 436, it was stated by the Petitioner that the same had been let out in the year 2015 and was vacated in or around October - November, 2016, and subsequently the Petitioner regained possession of the said property. However, the Respondent specifically averred that the Petitioner thereafter, had re-let the said property to successive tenants, *i.e.*, M/s Riyaz Chicken Corner and subsequently to M/s Akib Chicken Point. The Petitioner, instead of disputing the said position, took an inconsistent stand that tenancy *qua* the said property was in the name of his son, who had further sub-let the same with his consent. In absence of any documentary proof of such alleged tenancy, coupled with the admission that no rent had been paid by his son for several years, the said plea was rightly rejected by the learned ARC. It was correctly concluded that despite availability of alternate premises, the Petitioner permitted further sub-letting, which undermined the plea of *bona fide* requirement.



42. With respect to Property No. 439, the Respondent asserted that the said property had been let out to a tenant running a dry-cleaning business under the name of “Wardrobe”. The Petitioner, on the other hand, had claimed that the said property was leased out to “Jyoti Fabricare Services Limited” *vide* lease agreement dated 03.08.2015. However, the Petitioner failed to place on record the original lease agreement before the learned ARC. Even otherwise, the said property was let out by the Petitioner nine months prior to the filing of the eviction petition, and there was no averment as to when the alleged need for the subject premises arose. In these circumstances, the learned ARC rightly observed that letting out of the said property, shortly before filing of the eviction petition, casted a serious doubt on the *bona fide* requirement of the Petitioner.

43. With respect to Property No. 440, the Respondent had argued that the same was sold by the Petitioner to Sh. Amit Kumar Sethi and the vacant possession of the said property was handed over at the time of execution of the sale deed. It was further contended that despite the said property being available with the Petitioner, the same was not utilised for his son, Mr. Jatinder Atri’s requirement. In these circumstances, the time frame for the alleged need becomes crucial. *Per contra*, it was argued by the Petitioner that he was constrained to sell the said property for raising funds for construction of Property No. 279-A. It is pertinent to note that no evidence, either documentary or oral, was placed on record before the learned ARC to demonstrate that any construction was carried out by the Petitioner, after execution of the said sale deed. In these circumstances, the learned ARC had rightly concluded that the Petitioner had failed to lead any evidence in support



of the said contentions, thereby again casting serious doubts on the *bona fide* requirement.

44. The finding of the learned ARC with respect to not specifying the time period during which the need for a separate office arose, has to be examined in the aforesaid background, particularly in light of the premises being available to the Petitioner shortly before the filing of the petition and thereafter.

45. Hon'ble Supreme Court in **Sarla Ahuja v. United India Insurance Co. Ltd.**⁹, and **Abid-Ul-Islam v. Inder Sain Dua**¹⁰, held that the scope of interference by this Court, in exercise of its revisional jurisdiction under Section 25B (8) of the DRC Act, is limited. Such jurisdiction is confined to examining whether the impugned order suffers from any error apparent on the face of the record. The Revisional Court cannot reappraise evidence or substitute its own view, unless the impugned order is shown to be arbitrary, perverse, or vitiated by material impropriety. In the absence of such infirmities, there remains narrow scope for interference with the impugned order.

46. Having regard to the aforesaid discussion, no interference with the impugned order dated 31.10.2019 passed by the learned ARC is called for, and the same is accordingly upheld.

⁹ (1998) 8 SCC 119

¹⁰ (2022) 6 SCC 30



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47. In view of the aforesaid, the present petition is dismissed and disposed of accordingly.

48. Pending application(s), if any, also stands disposed of.

49. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA
(JUDGE)**

APRIL 08, 2026/sn/db