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

Date of decision: 10.09.2026

CNR No. DLHC010431342026

+ RC.REV. 338/2026, CM APPL. 61920/2026 (Ex. From filing certified copies of annexures), CM APPL. 61921/2026 (Stay) & CM APPL. 61922/2026 (Delay of 47 days in Re-filing the petition)

VIKRAM SACHDEVA

.....Petitioner

Through: Mr. Jaspreet Singh Rai, Senior Advocate along with Ms. Sukhdeep Kaur Rai, Ms. Jaanvi Jolly and Mr. Rishab Gulati, Advocates.

versus

NAVEEN KUMAR DHINGRA

.....Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (Oral)**

1. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958¹**, challenging the **Order dated 30.03.2026²**, passed by the **learned Additional Rent Controller, Central District, Tis Hazari Courts, Delhi³**, in **Eviction Petition being RC ARC 228/2023⁴**, titled “*Naveen Kumar Dhingra v. A.K.S. Enterprises*”, whereby the leave to defend application filed on behalf of the Petitioner herein was dismissed by the learned ARC and an

¹ DRC Act

² Impugned Order

³ learned ARC



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Eviction Order was passed in favour of the Respondent herein with respect to **one shop, Ground Floor, 988-989, Ward No. XIV, Pan Mandi, Sadar Bazar, Delhi - 110006⁵**.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

2. Learned Senior Counsel appearing on behalf of the Petitioner submits that the Petitioner had raised several specific pleas in the application seeking leave to defend and the affidavit accompanying thereto. In particular, reliance is placed upon paragraph 10 of the said application, which reads as follows:

- “10. That the petitioner had shown three shop at ground floor of the premises No 988-989, Ward No. 14, Pan Mandi, Sadar Bazar, Delhi - 110006. Measurement of these shops are not shown correctly, the shop with the respondent is of a small size as compared to the other shops on ground floor which are in possession of petitioner and other tenants. Besides the three shops on the ground floor there is another shop under the stairs leading to upper floors. The said shop under the stairs is not disclosed by the petitioner in the site plan and also in his present petition. It is noted herein that the petitioner had not even disclosed the occupancy of other two shops in premises No. 988-989, Ward No. 14, Pan Mandi, Sadar Bazar, Delhi - 110006. The petitioner had not specified who are occupying the other shops at the ground floor besides the petitioner. The petitioner is suppressing and concealing the material facts from this Hon'ble Court in filing of the present petition that these shops are three other shops which are in occupation and possession of the petitioner. It is not out of place to mention herein that the petitioner is also in occupation of First Floor and Second Floor of the premises No. 988 - 989, Ward No. 14, Pan Mandi, Sadar Bazar, Delhi - 110006. The First Floor and Second floor is lying vacant. The First floor and Second Floor was purchased under the name of wife of the petitioner. The petitioner had himself in earlier petition admits that her wife is housewife, this implies that the petitioner is having alternative commercial space available

⁴ Eviction Petition

⁵ Subject Premises



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for his son for alleged need of the business.”

3. Learned Senior Counsel further relies upon paragraphs 21, 27 and 28 of the application for leave to defend, which read as follows:

“21. That the Petitioner has concealed the alternative commercial property at Narela Industrial Area, the same is mentioned in the Income Tax Return. The petitioner had filed the income Tax returns in earlier petition. The respondent had highlighted the same in previous application filed under section 25(B)(4) of DRC Act. The petitioner very cunningly had concealed and not filed his Income Tax returns with the present petition. The petitioner is duty bound to disclose the all the available properties to him in the present petition. The petitioner is also duty bound to disclose about non - suitability of alternative properties as available with him in the present petition. It transpires that in order get the eviction, the petitioner has concealed the alternative commercial property available to the petitioner.

27. That Petitioner also own and possess property bearing no. 1310, Pan Mandi, Sadar Bazar, Delhi which is a multi story, ground floor having and several shops and big halls/ godowns on its first and second floor there. The son of petitioner is presently occupying and operating business from the above said shop. The above mentioned property is concealed by the Petitioner in order to derive wrongful gain.

28. That Petitioner had recently sold the adjoining commercial property to Sh. Virender Kumar Arora. The petitioner had falsely not specified the year as truth can be revealed. The tenants of the suit premises. The present petition is not maintainable bad mis - joinder and non- joinder of necessary parties. They have interest and right in the suit shop as partners in respondent firm.”

4. A perusal of the aforesaid paragraphs makes it apparent that, insofar as Paragraph 10 is concerned, learned Senior Counsel submits that the Petitioner has specifically alleged suppression and concealment by the Respondent of various properties in his possession, including the other shops situated on the Ground Floor as well as the First and Second Floors of the Subject Premises. It is



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submitted that the said properties have been specifically brought to the notice of the learned ARC as being available with the Respondent, and that the Respondent, in response to the said averments, has not disclosed or explained as to why such properties would not constitute reasonably suitable alternative accommodation for the requirement pleaded by him.

5. Furthermore, learned Senior Counsel submits that the Paragraph 21 of the said application refers to an alleged alternative commercial property situated at Narela Industrial Area, which, according to the Petitioner, has also been suppressed by the Respondent. Similarly, Paragraphs 27 and 28 deal with the Respondent's alleged ownership and possession of other properties and the alleged sale of an adjoining commercial property. It is, therefore, submitted that the Petitioner had raised triable issues which ought to have resulted in grant of leave to defend.

6. Learned Senior Counsel further submits that the specific averments and allegations raised by the Petitioner in the application seeking leave to defend have not been specifically or satisfactorily controverted by the Respondent in the reply filed thereto.

7. Learned Senior Counsel lastly submits that, while dealing with the aforesaid pleas, the learned ARC has effectively set up a case on behalf of the Respondent, by relying upon considerations which were not specifically pleaded or urged by the Respondent.

ANALYSIS:

8. This Court has heard learned Senior Counsel appearing on behalf of the Petitioner at length, and, with his able assistance, perused the relevant documents as also the Impugned Order.



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9. Before proceeding to examine the grounds of challenge urged on behalf of the Petitioner, it would be apposite to advert to the scope and ambit of the revisional jurisdiction vested in this Court under the *proviso* to Section 25B(8) of the DRC Act.

10. The contours of the aforesaid jurisdiction are well settled. The Hon'ble **Supreme Court**, in ***Sarla Ahuja v. United India Insurance Co. Ltd.***⁶, ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***⁷, and, more recently, in ***Abid-Ul-Islam v. Inder Sain Dua***⁸, has consistently held that the jurisdiction exercised by the High Court under the *proviso* to Section 25B(8) of the DRC Act is supervisory and revisional in character and cannot be equated with the exercise of appellate jurisdiction.

11. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in ***Pankaj Pahwa v. Prem Wati & Ors.***⁹, and ***Sanjeev Hiranandani v. Sunny Grover***¹⁰.

12. 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, including the legality and propriety thereof, and does not permit the High Court to substitute its own view for that of the learned Rent

⁶ (1998) 8 SCC 119

⁷ (2014) 9 SCC 78

⁸ (2022) 6 SCC 30

⁹ 2024:DHC:9322

¹⁰ 2025:DHC:11285



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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.”

13. In ***Pankaj Pahwa*** (supra), a Coordinate Bench of this Court, upon considering the principles enunciated in ***Abid-Ul-Islam*** (supra), reiterated that the jurisdiction exercised by this Court under the *proviso* to Section 25B(8) of the DRC Act is limited in scope and that this Court is not expected to substitute or supplant its view for that of the learned ARC. The revisional scrutiny is confined to examining the decision-making process and determining whether the Impugned Order suffers from an error apparent on the face of the record or an absence of adjudication warranting interference.

14. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Order



suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

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

16. In order to appreciate the challenge raised by the Petitioner, it would be appropriate to examine the findings returned by the learned ARC. The learned ARC has in the Impugned Order dealt with various aspects relating to the alternate accommodation in the following manner:

“ALTERNATE ACCOMMODATION

23. With regard to the plea of alternative accommodation, it is contended by the respondents that the petitioner has concealed the various alternative accommodations which are available with the petitioner. However, it is a well settled proposition of law that it is not sufficient that any kind of the property should be available to the petitioner/landlord to rule out the benefit of 14(1)(e) of D.R.C. Act. The property available with the petitioner/landlord should also be reasonably suitable property. In ***M M Quasim vs/ Manohar Lal Sharma, (1981) 3 SCC 36***, the Apex Court has that the landlord does not have an unfettered right to choose the premises *but merely showing that the landlord has some other vacant premises in his possession may not be sufficient to negative the landlord's claim if the vacant premises were not suitable for the purpose for which he required the premises.*

24. In the present matter, however, no particulars of any purported alternative accommodation have been pleaded by the respondent. It is trite to state that onus is upon the respondent to show on prima facie basis that the alternate properties do belong to the petitioner or are under the occupation and possession of the petitioner and not for the petitioner to prove the negative assertion.



The said plea is also a bald averment only. It is trite to state that the burden is upon the tenant to show that other alternative suitable accommodation is available with landlord and how the said premises were suitable for the pleaded requirement. Reference is made to the judgment of the Hon'ble High Court of Delhi in the case of **Lalta Prasad Gupta Vs. Sita Ram, 2017 SCC Online Del 13026**, wherein it was held as under: -

"18. Thus, if the tenant seeks leave to defend controverting the requirement pleaded by landlord on the ground of the landlord, though at the time of requirement having alternate premises, having not used the same and instead having commercially exploited the same, the tenant must plead (a) the particulars of such premises; (b) the right/title of the landlord to the same; (c) that the said premises were vacant and available for use at the time of pleaded requirement of landlord; (d) how the said premises were suitable for the pleaded requirement; and (e) how the landlord has deprived himself thereof i.e. by sale or letting and support the said pleas with material on the basis whereof such pleas will be proved."

25. Furthermore, it is also pertinent to note that the Hon'ble Supreme Court in **Abid-ul-Islam Vs. Inder Sain Dua, (2022) 6 SCC 30** has held for availing leave to defend a mere assertion by the tenant is insufficient. **Section 14 (1) (e) of the Act creates a presumption in favour of the landlord regarding bona fide need, which is rebuttable only with substantive material capable of raising a triable issue.** It was further held that the burden of proof is on the tenant to demonstrate, with cogent evidence, that the landlord's requirement is not genuine. The Court also reiterated the settled principle of law that leave to defend should not be granted on mere asking but when the pleas and contentions raise triable issues.

26. Further, in the case titled as **Ragavendra Kumar Vs. Firm Prem Machinery 2000 SC 534**, it was observed as under: -

"It is settled position of law that the landlord is best judge of his requirement for residential or business purpose and he has got complete freedom in the matter, (See: Prativa Devi (Smt.) v. T.K Krishnan, [1996] 5 SCC 353. In the case in hand the plaintiff-landlord wanted eviction of the tenant from the suit premises for starting his business as it was suitable and it cannot be faulted."

27. It is also contended that petitioner has alternative accommodation in the subject premises itself in the form of vacant shops at first floor and second floor. However, it is pertinent to note that nothing has been brought on record to even prima facie



show that the said premises/shops are lying vacant. Therefore, it is not the case whereby the said shops are lying vacant and available as alternative accommodations. Besides, it is a well settled law that the shop on the ground floor is much more suitable than a shop on the upper floors from the perspective of both the buyer and seller. In this regard it is pertinent to note the judgement of the **Hon'ble Apex Court in Uday Shankar Upadhyay v. Naveen Maheshwari (2010) 1 SCC 503**, is to be noted where it was held that it is not for the Courts to say that the landlord should shift to the first floor or any higher floor as it is well known that shops and businesses are usually conducted on the ground floor, because the customers can reach there easily. It was reiterated that the Court cannot dictate to the landlord which floor he should use for his business and that is for the landlord himself to decide. Thus, a ground floor premises is more suitable for commercial purpose than the premises on upper floor as it has more footfall of the customers. Therefore, the shop on the upper floors cannot be considered as a suitable alternative accommodation. Reliance in this regard is placed upon the decision of **Hon'ble High Court of Delhi in case of Dilip Singh Kapoor & Ors Vs. Neeraj Khanna & Anr, RC.REV. 66/2017, decided on 31.08.2022.** Furthermore, the landlord being the best judge of his own requirement is the best person to decide as to which premises, he has to choose for conducting his business and a tenant cannot force the landlord to conduct his business from the basement or upper floor. It has been held by the **Hon'ble Supreme Court in the case of Rahabhar Productions Pvt. Ltd. Vs. Rajendera Kumar Tandon 72 (1998) DLT 629** that the landlord is not disentitled from seeking recovery of the possession of a ground floor merely on the plea that he is also in possession of first floor and second floor so long as the court is satisfied with respect to the Bonafide requirement of the landlord for the tenanted premises. Similarly, in the present matter, the tenant cannot dictate the landlord to run his business from the first floor when it is settled law that the premises on the ground floor are much more suitable for commercial needs.

28. Even otherwise, it is the prerogative of the landlord to determine which premises best suits his requirements. It is trite to state that an alternative accommodation, to entail denial of claim of landlord, must be reasonably suitable, obviously in comparison with tenanted premises, wherefrom the landlord is seeking eviction. The Hon'ble Supreme Court and the Delhi High Court have repeatedly held that the Courts are not to sit in the armchair of the landlord and dictate as to how the available property of the landlord is to be best utilized by him. The landlord is the absolute owner of his property and is the best person to decide which property is to be utilized in what way. The respondent cannot dictate as to how the landlord is to utilize his property. The



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landlord possesses the prerogative to determine their specific requirements, exercising full autonomy in this regard. It is not within the purview of the courts to impose directives on the landlord regarding the nature or quality of their chosen usage of the tenanted premises. Therefore, the courts refrain from prescribing any standard or guidelines for the landlord's choices (residential or commercial). Reliance is placed upon the decision of the Hon'ble Delhi High Court in case of ***Praveen & Anr. Vs. Mulak Raj & Ors. RC Rev. 417/2016*** in this regard. *Therefore, the said contention is a bald averment and without any particulars of any purported alternative accommodation, does not amount to any triable issue.*

29. Hence, I find that the respondent has failed to raise any triable issue on the aspect of alternative accommodation as well.

17. Viewed in the aforesaid backdrop, this Court finds that the learned ARC has duly considered the plea of alternative accommodation raised by the Petitioner and has correctly appreciated the legal requirement governing such a defence. The mere assertion that the landlord is in possession of, or has access to, other properties cannot by itself constitute a triable issue. What is required to be shown is that such premises are not only available to the landlord but are also reasonably suitable for the purpose for which the eviction is sought. In the present case, the allegations made by the Petitioner, even if taken at their highest, do not disclose the necessary particulars to establish such availability and suitability.

18. The aforesaid principle has been elaborated by the Hon'ble Supreme Court in ***Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta***¹¹, wherein it was held that the availability of an alternative accommodation assumes relevance only where such accommodation is suitable and convenient in comparison with the premises from

¹¹ (1999) 6 SCC 222



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which eviction is sought. The Court further recognised that even where another accommodation is shown to be available, the landlord may demonstrate that the same is of no consequence as it is not reasonably suitable to satisfy the need objectively found to exist. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“14. The availability of an alternative accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation, may have an adverse bearing on the finding as to the bona fides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. Secondly, another principal ingredient of clause (e) of sub-section (1) of Section 14, which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available then the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternative residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternative accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come.

18. In *M.M. Quasim v. Manohar Lal Sharma* [(1981) 3 SCC 36 : AIR 1981 SC 1113] this Court has held (vide para 18) that the landlord does not have an unfettered right to choose the premises but merely showing that the landlord has some other vacant premises in his possession may not be sufficient to negative the



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landlord's claim if the vacant premises were not suitable for the purpose for which he required the premises. This Court cautioned that the court must understand and appreciate the relationship between the legal rules and necessities of life.

19. In *Ram Dass v. Ishwar Chander* [(1988) 3 SCC 131 : AIR 1988 SC 1422] this Court has held that: (SCC pp. 134-35, para 11)

“[T]he need of the landlord should be genuine and honest, conceived in good faith; and that, further, the court must also consider it reasonable to gratify that need. Landlord's desire for possession, however honest it might otherwise be, has inevitably a subjective element in it and that, that desire, to become a ‘requirement’ in law must have the objective element of a ‘need’. It must also be such that the court considers it reasonable and, therefore, eligible to be gratified. In doing so, the court must take all relevant circumstances into consideration so that the protection afforded by law to the tenant is not rendered merely illusory or whittled down.”

20. In *Sarla Ahuja v. United India Insurance Co. Ltd.* [(1998) 8 SCC 119] this Court has held that the Rent Controller should not proceed on the assumption that the landlord's requirement is not bona fide. When the landlord shows a prima facie case a presumption that the requirement of the landlord is bona fide is available to be drawn. It is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without giving possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.”

19. The aforesaid principle equally governs the allegation of concealment raised by the Petitioner. In ***Sachin Nagpal v. Gopal Krishan***¹², this Court, while considering a similar allegation that the landlord had failed to disclose several other shops in the same building, held that, for a premises to constitute an alternative accommodation, it must not only be alternate but must also be actually available and suitable. It was further held that failure to disclose a premises which is not available to the landlord cannot, by itself, be

¹² 2025 SCC OnLine Del 1367



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treated as concealment. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“9. The provisions of Section 14(1)(e) of the Delhi Rent Control Act, 1958 [hereinafter referred to as the “DRC Act”] have been provided for with care by the Legislature. On the aspect of availability of alternate suitable accommodation, it is not only that the accommodation is to be alternate, it is also required to be available and suitable. The Supreme Court in ***Shiv Sarup Gupta v. Mahesh Chand Gupta*** (*Supra*) has held for an eviction petition to fail on the ground of alternate suitable accommodation being available, the other accommodation must be suitable and convenient in all respects as the tenanted accommodation from which the landlord seeks eviction of. It has been held that:

“14. The availability of an alternative accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. **Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation**, may have an adverse bearing on the finding as to the bona fides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. **Secondly, another principal ingredient of clause (e) of sub-section (1) of Section 14, which speaks of non-availability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available then the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternative residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternative accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction.** Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background wherefrom they come.”

10. The other issue that has been taken by the learned Counsel for the Petitioner/tenant is concealment of the 25 available shops in the same building as that of the subject premises. This submission is



without any merit. It is settled law that for a premises to be set out in the eviction petition, it must actually be available. Failure to disclose a premises which is not available to the landlord cannot be considered as concealment.

10.1 This Court in the case of *Shakuntala Devi v. Mohan Das*¹³, while relying on the case of *Meenal Eknath Kshirsagar (Mrs) v. Traders & Agencies*¹⁴ has held that mere omission to state alternate accommodation in the pleadings cannot be regarded as sufficient for disentitling the landlord from claiming a decree of eviction. The relevant extract of the *Shakuntala Devi* case is reproduced below:

“This evidence of the Petitioner has gone un rebutted in her cross-examination. The responses given by the Respondent in his cross-examination are also mostly evasive. Since, the accommodation referred to was not suitable, it cannot be said to be an alternate accommodation available. Given the law in this regard, it cannot be said that the non-mention of the Vikaspuri premises would tantamount to concealment by the Petitioner. The finding in this regard which has been impugned is thus set aside.
In the case of *Meenal Eknath Kshirsagar (Mrs) v. Traders & Agencies* [2024 SCC OnLine Del 8514], Supreme Court has held that mere omission to state alternate accommodation in the plaint cannot be regarded as sufficient for disentitling the landlord from claiming a decree of eviction. The relevant extract is reproduced below:

“18...It would have been better if she had referred to those facts but mere omission to state them in the plaint cannot be regarded as sufficient for disentitling her from claiming a decree for eviction, if otherwise she is able to prove that she requires reasonably the suit premises for her occupation. We are, therefore, of the opinion that the appellate bench and the High Court clearly went wrong in holding that the said omission was sufficient to disentitle her from getting a decree of eviction and it also disclosed that her claim was mala fide and not bona fide as required by law.”

[Emphasis supplied]

10.2 A similar view has been taken by a Coordinate Bench of this Court in the case of *Praveen v. Mulak Raj*¹⁵, has held that it is not necessary for the landlord to disclose the accommodations which are not considered as alternate accommodation and such non-disclosure would not make tenant entitled for leave to defend. The relevant extract is reproduced below:

“50. As far as the argument of the petitioners that the respondents have failed to disclose all the accommodation

¹³ 2024 SCC OnLine Del 8514

¹⁴ (1996) 5 SCC 344

¹⁵ 2023 SCC OnLine Del 7721



available with them is concerned, I am in agreement with the submissions made by the respondents that all the alternate accommodation has been disclosed by the respondents. The accommodation which was not disclosed was not considered as an alternate accommodation by the respondents. The non-disclosure of the other alternate accommodation, if any, is of no consequence and does not make the tenant entitled to leave to defend. The learned counsel for the respondents has rightly placed reliance upon the judgments in this regard. This Court in “**Amolak Raj Singh v. Narender Kumar Dang**” [2017 : DHC : 6652] held that:—

“32. As far as the contention of the counsel for the petitioner/tenant, of the respondent/landlord in the petition for eviction having not disclosed the allotment at Holambi Kalan is concerned. Supreme Court in **Ram Narain Arora v. Asha Rani** (1999) 1 SCC 141 held that the non-disclosure of accommodation which the Court also agrees cannot be alternate suitable accommodation, cannot be fatal to the petition for eviction. I have also in judgment dated 12th January, 2009 in RC (R) No. 78-79/2005 titled **Mumtaz Begum v. Mohd. Khan** held that non-disclosure of other accommodation available is not always fatal. To the same effect are **Surinder Singh v. Jasbir Singh** (2010) 172 DLT 611, **Sukhbir Singh v. Dr. I.P. Singh** (2012) 193 DLT 129, **Manju Devi v. Pratap Singh** (2015) 219 DLT 260 and **Hameeda Shahzad v. Shahjahan Khatoon** 2017 SCC OnLine Del 7203. I have recently in **Sunil Kumar Goyal v. Harbans Singh** 2017 SCC OnLine Del 9289, referring to earlier judgments, also held that once the facts have come before the Court and the Court has, after dealing therewith held in favour of landlord, the petition for eviction cannot be dismissed on ground of concealment.”

51. Similar is the view of **Meenal Eknath Kshirsagar and Har Lal Gupta** (supra).

52. Hence, keeping in view the position of law related to non-disclosure of alternate premises, the argument of the petitioners that there is concealment of alternate accommodation by the respondents and the Eviction Petition should be dismissed on this ground, is hereby rejected. Even otherwise, there is no alternate property which has been concealed by the respondents.”

[Emphasis Supplied]

10.3 Since, the accommodation referred to by the Petitioner/tenant was not available, it cannot be said to be an alternate accommodation. Given the law in this regard, it cannot be said that the non-mention of these shops would tantamount to concealment by the Petitioner.”



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20. In the present case, the allegation of suppression appears to relate primarily to a space/ shop under the stairs as also to alleged shops on the first & second floors. The learned ARC has dealt with this aspect. Furthermore, the averments themselves do not state that these alleged other shops are alternate “suitable” accommodation.

21. Insofar as the alleged alternative premises at Narela Industrial Area and property bearing No. 1310, Pan Mandi, Sadar Bazar, Delhi are concerned, the pleadings merely contain assertions regarding their alleged ownership or possession by the Respondent. There is, however, no material to *prima facie* demonstrate that the said premises were available for the Respondent's use at the relevant time or, more importantly, that the same were reasonably suitable for the commercial requirement pleaded in the Eviction Petition. Similarly, the allegation regarding the First and Second Floors of the Subject Premises does not advance the case of the Petitioner, particularly when there is no material on record to establish that the said premises were lying vacant and were available for use. The learned ARC has, therefore, rightly held that such assertions, without the requisite particulars and supporting material, do not give rise to a triable issue.

22. It is equally well settled that the question as to which premises would best serve the commercial requirement of a landlord cannot be dictated by the tenant or determined by the Court by sitting in the proverbial armchair of the landlord. The suitability of premises has to be assessed in the context of the nature of the requirement pleaded. In the present case, the Subject Premises are situated on the Ground Floor, whereas the alleged alternative premises are stated to be



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situated on the upper floors. The mere availability of premises on another floor, without anything more, cannot compel the landlord to shift his business thereto, particularly when the commercial suitability of a Ground Floor premises is materially different. Viewed cumulatively, the pleadings relied upon by the Petitioner do not demonstrate the availability of any reasonably suitable alternative accommodation with the Respondent.

23. In *Uday Shankar Upadhyay v. Naveen Maheshwari*¹⁶, the Hon'ble Supreme Court held that it is not for the Court to direct the landlord to shift to the First Floor or any higher floor, particularly when shops and businesses are ordinarily conducted from the Ground Floor owing to the ease of access to customers. The relevant portion of the aforesaid Judgment is reiterated hereinbelow:

“7. In our opinion, once it is not disputed that the landlord is in bona fide need of the premises, it is not for the courts to say that he should shift to the first floor or any higher floor. It is well known that shops and businesses are usually (though not invariably) conducted on the ground floor, because the customers can reach there easily. The court cannot dictate to the landlord which floor he should use for his business; that is for the landlord himself to decide. Hence, the view of the courts below that the sons of Plaintiff 1 should do business on the first floor in the hall which is being used for residential purpose was, in our opinion, wholly arbitrary, and hence cannot be sustained. As regards the finding that the sons of Plaintiff 1 are getting a salary of Rs 1500 from the firm, in our opinion, this is wholly irrelevant and was wrongly taken into consideration by the High Court.”

24. The learned ARC has, therefore, applied the correct legal test and has arrived at a conclusion which is based upon the pleadings and material before it. The finding that the Petitioner has failed to raise a triable issue on the aspect of alternative accommodation cannot be



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said to suffer from any jurisdictional error, material irregularity or perversity.

25. At this stage, it bears reiteration that the jurisdiction of this Court under Section 25-B(8) of the DRC Act is not intended to provide an appellate scrutiny of the order passed by the learned ARC. Even if another view of the material on record were theoretically possible, that by itself would not furnish a ground for interference. The test is whether the view adopted by the learned ARC is legally sustainable and whether the decision-making process suffers from any error of the nature contemplated by the limited revisional jurisdiction. In the present case, no such infirmity is discernible.

26. In view of the foregoing discussion, this Court finds that the learned ARC has duly considered the material pleas raised by the Petitioner and has returned findings which are neither perverse nor unreasonable. No jurisdictional error, manifest illegality, material irregularity or error apparent on the face of the record has been demonstrated so as to warrant interference by this Court in exercise of its revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act.

27. For the reasons as stated above, this Court finds no merit in the present Petition. The present Petition is, accordingly, dismissed.

28. The present Petition, along with pending Application(s), if any, stands disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 10, 2026/tk/ma

¹⁶ (2010) 1 SCC 503