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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 09.09.2026**# **CNR No. DLHC010110152019**+ **RC.REV. 93/2019 & CM APPL. 7174/2019 (Stay)****NARAIN SINGH BIST**

.....Petitioner

Through: **Ms. Tamali Wad, Sr. Advocate
with Mr. Varyam Pandey,
Advocate**

versus

RAMA BHATIA & ORS

.....Respondents

Through: **Appearance not given****CORAM:****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Revision Petition, filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**¹, seeks to assail the **Order dated 09.01.2019**², passed by learned **Senior Civil Judge-cum-Rent Controller, North-West Rohini Courts, Delhi**³ in the **Eviction Petition, being RC No.5566/2016**⁴, titled “*Narayan Singh Bisht vs. Smt. Rama Bhatia & Ors.*”.

2. By way of the Impugned Order, the Application seeking leave to defend, filed by the Respondents, came to be allowed and,

¹ DRC Act

² Impugned Order

³ RC

⁴ Eviction Petition



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consequently, the Eviction Petition was directed to be tried in accordance with law.

SUBMISSIONS ON BEHALF OF THE PARTIES:

3. Learned Senior Counsel appearing on behalf of the Petitioner submits that leave to defend has been granted by the learned RC on a ground which was neither pleaded nor otherwise raised by the Respondents before the learned RC. In this regard, reliance is placed upon Paragraph No. 17 of the Impugned Order.

4. Learned Senior Counsel for the Petitioner further submits that the entire reasoning adopted by the learned RC proceeds on the premise that the case set up by the Petitioner, seeking Eviction of the Respondents, is one of “*additional accommodation*”. She submits that, however, neither in the Application seeking leave to defend, nor in the affidavit accompanying the same, nor even in the Rejoinder to the Reply to the said Application, was any such plea raised or canvassed by the Respondents. It is, therefore, her submission that the very foundation upon which the Impugned Order proceeds is contrary to the pleadings and, consequently, the Impugned Order is liable to be set aside.

5. Learned Senior Counsel for the Petitioner further submits that, pursuant to the Order passed by this Court, certain arrears were directed to be paid by the Respondents, however, the same remain outstanding and have not been paid to the Petitioner, and, therefore, the Respondents may be directed to pay the same.

6. **Per contra**, learned counsel appearing for the Respondents, forthrightly submits that although the plea of “*additional accommodation*” does not find specific expression in the pleadings on



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record, however, the same was canvassed orally before the learned RC.

7. Learned counsel for the Respondents further submits that, in the event this Court is inclined to remand the matter back to the learned RC, the issue relating to the outstanding arrears, and computation thereof, may also be considered by the learned RC.

ANALYSIS:

8. This Court has heard learned counsel for the parties and, with their able assistance, perused the relevant documents and material placed on record.

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.**⁵, **Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh**⁶, and, more recently, in **Abid-Ul-Islam v. Inder Sain Dua**⁷, 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**

⁵ (1998) 8 SCC 119

⁶ (2014) 9 SCC 78

⁷ (2022) 6 SCC 30



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Pahwa v. Prem Wati & Ors.⁸, and ***Sanjeev Hiranandani v. Sunny Grover***⁹.

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

⁸ 2024:DHC:9322

⁹ 2025:DHC:11285



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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 Judgment 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 Judgment are required to be examined.

16. Before advertng to the facts of the present case, for the sake of completeness and clarity, this Court deems it apposite to reproduce Paragraph No. 17, which constitutes the principal basis of challenge in the present Revision Petition. The same reads as under:



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“17. I find force in such argument of learned counsel for respondents. On a bare perusal of present main eviction petition, it becomes clear that the petitioner already has certain accommodation in possession in the same building in which tenanted suit property is situated. It is admitted by the petitioner in para 18 (a) (v) that he is already in possession of a shop of 8'x8' feet which is adjacent to tenanted suit shop. It is further admitted and claimed by the petitioner that same is not sufficient for his proposed commercial requirement of provisional store. Thus, it appears to be a case of additional accommodation. In this regard it is settled law that normally leave to defend is to be allowed. It has been held in **S. M. Mehra V. D. D. Malik, 2001 (1) SCC 255** that there is no need to take a summary procedure since it is case of additional accommodation. The same proposition has been held by the Hon'ble Supreme Court of India in **Santosh Devi Soni Vs. Chand Kiran, JT 2000 (3) SC 397.** In view of these judgments, it is clear that the petitioner's requirement for additional accommodation is a triable issue. In view of these judgments, it is clear that the case of the petitioner is of an additional accommodation which may only be decided after leading evidence of the parties. Further, it is also matter of trial whether the suit shop is in possession of the petitioner is adequate or not and consequently whether the requirement of the petitioner is bonafide or not.”

(Emphasis supplied)

17. This Court has, upon a careful perusal of the pleadings filed by the Respondents before the learned RC, including the Application seeking leave to defend, the affidavit accompanying the said Application and the Rejoinder to the Reply thereto, found that no plea was raised by the Respondents that the requirement pleaded by the Petitioner constituted a case of “*additional accommodation*”, or that the accommodation already available with the Petitioner rendered the requirement in question one for additional accommodation.

18. The aforesaid position is, in fact, not disputed by learned counsel appearing for the Respondents, who has fairly submitted that although no such plea formed part of the pleadings, the same was canvassed orally before the learned RC.



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19. The significance of the aforesaid position, therefore, cannot be understated. The learned RC, in Paragraph No.17 of the Impugned Order, proceeded to characterize the Petitioner's requirement as one for "*additional accommodation*" and, upon that premise, applied the principles governing cases of additional accommodation to hold that the requirement constituted a triable issue warranting grant of leave to defend.

20. Thus, this Court is satisfied that the very premise on which the learned RC proceeded to apply the aforesaid legal principles was not founded upon any plea raised by the Respondents in their Application seeking leave to defend or the pleadings filed in support thereof.

21. It is trite that the grant of leave to defend in proceedings under Section 14(1)(e) read with Section 25-B of the DRC Act must be tested on the basis of the pleas and facts placed before the learned RC by the tenant. A plea which finds no foundation in the pleadings cannot ordinarily furnish the basis for holding that a triable issue arises, particularly when such plea forms the very foundation for the exercise of discretion to grant leave to defend. In the present case, the learned RC has proceeded beyond the case set up by the Respondents and has founded the grant of leave to defend on a premise which, as fairly conceded by learned counsel for the Respondents, was not pleaded before it.

22. The error, therefore, is not one which merely invites a different appreciation of the material on record. The Impugned Order proceeds on a factual premise which had no foundation in the pleadings and, on the basis thereof, applies the legal principles governing cases of additional accommodation.



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**DECISION:**

23. The error, consequently, goes to the very root of decision-making process and falls within the limited parameters of revisional scrutiny, as discussed herein before, under the *proviso* to Section 25-B(8) of the DRC Act. Therefore, the Impugned Order, granting the leave to defend, cannot be sustained.

24. Accordingly, the Impugned Order is set aside and the matter is remanded to the learned RC for fresh consideration of the Application seeking leave to defend, on the basis of the pleadings and material already available on record and in accordance with law.

25. Considering that the Eviction Petition dates back to the year 2016 and has remained pending for nearly a decade, the learned RC is requested to endeavor to dispose of the Application seeking leave to defend expeditiously, preferably within a period of six (06) months from the date of receipt of the present Order.

26. The issue with regard to the arrears, as urged on behalf of the Petitioner, is left open to be raised before the learned RC by way of appropriate proceedings in accordance with law.

27. Needless to observe, this Court has not expressed any opinion on the merits of the rival contentions or on whether any triable issue otherwise arises from the pleadings on record.

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

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 09, 2026/rk/DJ