

KUSUM LATA SHARMA

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v.

ARVIND SINGH

(Civil Appeal No. 3111 of 2023)

APRIL 25, 2023

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[DINESH MAHESHWARI AND SANJAY KUMAR, JJ.]

Delhi Rent Control Act, 1958 – ss.14(l)(e) and 25-B – Eviction – Grant of – Appellant-landlord had filed eviction petitions seeking to evict her tenants on the ground of her bona fide requirement – Rent Controller ordered the eviction of the tenants – On revision, the High Court reversed the decision of the Rent Controller on the ground that appellant had not been forthright in the description of the property and had taken the pleadings in a misleading manner and the availability of other property had not been clearly disclosed – On appeal, held: A comprehensive look at the pleadings along with the site plan attached, it makes evident that the appellant gave out a detailed description of the extent of accommodation available in the suit property as also the accommodation presently in her occupation and the nature and extent of her requirement – Appellant had further made position clear in her cross-examination – Thus, it is clear that there had not been any such misdescription of the property – The material placed on record indicate that the appellant and other members of the family might be having title or interest in some other properties too but, such an aspect would hardly operate against the appellant, when her prayer for eviction had been accepted by the Rent Controller on valid grounds and with cogent reasons – Judgment of High Court set aside and the orders of Rent Controller restored.

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Delhi Rent Control Act, 1958 – s.25-B(8) – Limited jurisdiction under – Held: In terms of the proviso to s.25-B(8), a limited window is allowed to the extent that the High Court may call for the record, for the purpose of satisfying itself that the order had been passed in accordance with law – Pure finding of fact is not open for interference unless such a finding is given on a wrong premise of law.

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A **Allowing the appeals, the Court**

- HELD.** 1. Taking the pleadings as a whole and reading the same with the evidence, it is clear that there had not been any such misdescription of the property which would amount to a material flaw in the case of the appellant or which could have caused prejudice to the respondent's tenants. [Para 18][509-G-H]
2. Noteworthy, it is that it had not been the case of the respondents that they were not the tenants in the premises in question. The only attempt on the part of the respondents had been to suggest that other properties and accommodations were available with the family. Such suggestion on the part of respondents had not been accepted by the Rent Controller as operating against the assertion of *bona fide* requirement of the appellant. Such findings of the Rent Controller had essentially been the findings of facts on the basis of evidence on record.
3. The appellant as also her brother-in-law and the other referred members of the family might be having title or interest in some other properties too but, such an aspect would hardly operate against the appellant, when her prayer for eviction had been accepted by the Rent Controller on valid grounds and with cogent reasons. [Para 22][510-E]
4. The findings on *bonafide* requirement of the appellant in relation to both these cases could not have been disturbed by the High Court on a rather nebulous and vague ground of want of clarity about identification of the property in question. [Para 23][510-F]

G *Dwarkaprasad v. Niranjan & Anr. (2003) 4 SCC 549 : [2003] 2 SCR 580; Abid-ul-Islam v. Inder Sain Dua (2022) 6 SCC 30 – referred to.*

Case Law Reference

[2003] 2 SCR 580	referred to	Para 5
H (2022) 6 SCC 30	referred to	Para 9

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3111 of 2023.

From the Judgment and Order dated 17.04.2018 of the High Court of Delhi at New Delhi in RCREV No. 78 of 2015.

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With

Civil Appeal No. 3112 of 2023.

Vinay Kr. Garg, Sr. Adv., Sagar Saxena, Rajeev Maheshwaranand Roy, Advs. for the Appellant.

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Sibo Sankar Mishra, Niranjan Sahu, Debabrata Dash, Apoorva Sharma, Advs. for the Respondent.

The Judgment of the Court was delivered by

DINESH MAHESHWARI, J.

Leave granted.

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2. These appeals are directed against similar orders dated 17.04.2018, as passed in RC. REV. No. 78 of 2015 and RC. REV. No. 80 of 2015 respectively, whereby a learned Single Judge of the High Court of Delhi at New Delhi¹ has allowed the revision petitions filed by the respective tenants and has reversed the similar orders dated 21.11.2014, as passed in eviction petitions bearing Nos. 02 of 2011 and 03 of 2011 by the Court of ACJ-cum-CCJ-cum-ARC, North District, Rohini, Delhi². These appeals, involving similar and common issues, have been considered together and taken up for disposal by this common judgment.³

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3. The learned Rent Controller, in the similar orders dated 21.11.2014, had accepted the petitions for eviction filed by the present appellant against the respective tenants, on the ground of her bona fide requirement. However, in the impugned orders dated 17.04.2018, the High Court has reversed the decision of the Rent Controller, essentially on the ground that the appellant-landlord had not been forthright in

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¹ Hereinafter also referred to as ‘the High Court’.

² Hereinafter also referred to as ‘the Rent Controller’.

³ It may be pointed that in the appeal arising out of SLP(C) No. 31550 of 2018 (relating to RC. REV. No. 80 of 2015 before the High Court), the respondent-tenant had expired during the pendency of the petition in this Court and after setting aside abatement, his legal representatives were brought on record by the order dated 09.12.2019.

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- A description of the property in question and had taken the pleadings in a misleading manner about the facts concerning right, title and interest of the wife of his brother-in-law in the property in question and about the fact that the building was constructed on two adjoining plots as a common superstructure.
- B 4. For what has been noticed hereinabove, the short point arising for determination in these appeals is as to whether the High Court has been justified in reversing the respective orders of eviction. The factual aspects pertaining to both these cases lie in a narrow compass and could be noticed as follows:
 - C 4.1. In the petition bearing No. 02 of 2011, the appellant sought eviction of the respondent-tenant with the averments that the respondent was inducted as tenant by her predecessor in the year 1995 at the rent of Rs. 1200/- per month in one room on the first floor of the property bearing No. C-586, Gali No. 12, Majlis Park, Delhi – 110033. The appellant also stated that the current monthly rent of the suit premises was Rs. 2100/- but, the tenant had not paid the rent since 01.06.2010.
 - D 4.2. The description of the property by the appellant in her petitions seeking eviction has formed the basis of the view of the High Court about want of forthrightness on her part. Therefore, it would be appropriate to reproduce the relevant parts of the pleadings taken by the appellant in that regard, which read as under:-
 - E “18. (a) The grounds on which the eviction of the tenant is sought:-
 - F i) Petitioner and her family are presently residing in the ground floor of aforesaid property and the accommodation presently available with the petitioner is totally insufficient for them and for the family members, who are dependent upon them for their residence. Petitioner resides in a joint family which comprises of her husband’s real brother (=Brother in law), his wife, 2 unmarried daughters, 1 married daughter and 1 son and she considers family of her brother in law as her own family. Entire family of the petitioner needs at least 5 bed rooms, 2 drawing rooms, 2 kitchen, 3 toilets, 3 bathrooms, 1 pooja room, 1 guest room, 1 verandah and a servant quarter. Petitioner also requires two rooms with 1 toilet, kitchen and verandah for opening of ‘Play-way’ by third daughter of her brother in law, Ms. Charu Sharma. However, accommodation presently available with the petitioner is only 2

bed rooms, 1 drawing room, 2 kitchens, 2 latrine/bathroom, 2 small store rooms, 1 pooja room and one verandah on the ground floor and 1 room each on the first and second floor which is grossly insufficient. Married daughter of brother in law of the petitioner and other close relatives of the petitioner keep visiting the petitioner and wants to stay with her out of love and affection for reasonable period, however due to lack of accommodation, they cannot stay. In such and other circumstances as detailed herein below petitioner is filing the present eviction petition for bonafide requirements.

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Further, the construction of the whole premises is very old and in dilapidated condition and needs urgent repairs and during the rainy season, the petitioner and her family has to suffer immense hardship as there is water logging on the ground floor and life of the petitioner and her family is thrown out of gear. Further, all the furnitures and fixtures are damaged during rainy season. Petitioner and her family members have to move all their belongings elsewhere during rainy season. Even petitioner and

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her family members have to leave their home and go to their relatives place during rainy season.

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Moreover, petitioner is a senior citizen and widow lady and the respondent and his family constantly misbehave and abuse the petitioner.

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ii) As stated above, front portion of property bearing no. C- 586/587, Gall No. 12, Majlis Park, Delhi-110033 comprises of only ground floor and is having 2 bed rooms, 1 drawing room, 2 kitchens, 2 latrine/bathroom, 2 small store rooms, 1 pooja room and one court yard and petitioner is presently having the aforesaid accommodation in her possession. Apart from the above, out of 3 rooms on the first floor and 3 rooms on the second floor, 1 room each on the first floor and second floor are in the possession of the petitioner.

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iii) Petitioner submits that aforesaid accommodation which is presently available with her is totally insufficient.

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As stated above, family of petitioner comprises of her husband's real brother, his 2 unmarried daughters, 1 married daughter and 1 son and petitioner considers family of her husband's brother as her own family. The eldest daughter of her husband's

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- A brother is Ms. Nisha who is married and is having one son aged about 2 years and lives separately, second daughter is Ms. Renu Sharma aged about 28 years and is unmarried, third daughter is aged about 25 years and studying in B.Com 3rd year (correspondence) from Delhi University and one son namely Master Govind Sharma who is aged about 16 years and studying in 10th class in A.G. DAV School, Model Town, Delhi. Documents regarding residential proof of petitioner and her family members are filed herewith as Annexure "P-1" (colly)."
- C 4.3. The appellant took several other averments on her requirement, including the lack of accommodation for herself as also for the wife and children of her brother-in-law. Along with the petition seeking eviction, the appellant appended a site plan of the property carrying the caption in the following terms: -
- D "Site plan of Property No. C-586, Gali No. 12,13, Majlis Park, Delhi – 110033."
- E 4.4. The respondent-tenant filed his written statement denying the assertions of bona fide requirement of the appellant while stating, *inter alia*, that the appellant wanted to sell out the suit premises to earn profit; her husband had expired 8-10 years back and she had no issues of her own; and there was no need of extra accommodation. It was also averred that the petition did not fall under Section 14(1)(e) read with Section 25-B of the Delhi Rent Control Act, 1958⁴, particularly when the appellant did not disclose all the facts concerning possession of other properties bearing No. 588, Gali No. 12, Majlis Park; No. C-603, Gali No. 13, Majlis Park; and No. E-591, Gali No. 12, Majlis Park.
- F 4.5. In evidence, the appellant asserted the facts stated in her petition. She was cross-examined extensively with questions pertaining to the properties belonging to herself, her brother-in-law (husband's brother) and wife of her brother-in-law, particularly concerning the property bearing No. C-587 as also those pertaining to the accommodation available in the suit property. The relevant parts of the statement made by her in cross- examination could be usefully extracted as under: -
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The building in which the suit property is situated is consisting

H ⁴ Hereinafter also referred to as 'the Act of 1958'.

of ground, first and second floor. It is correct that I reside on the A ground floor.

It is correct that my brother in law Prem Kumar Sharma was the owner of property no. C-588, Gali No.12, Majlis Park, Azadpur, Delhi. It is also correct that my brother in law Prem Kumar Sharma sold the said property to Smt. Sudesh Rani on B 23.06.2010 for Rs.16 Lakhs. It is correct that said property was sold vide sale deed Ex.PW1/R1.

(objected by counsel for petitioner stating the same is photocopy. Heard. The objection shall be decided at the stage of final arguments) C

It is correct that Smt. Geeta Sharma is wife of my brother in law Prem Kumar Sharma. It is correct that Smt. Geeta Sharma is owner of property bearing No. C-587, Gali No.12, Majlis Park, Azadpur, Delhi. Smt. Geeta Sharma herself is residing in property bearing No.C-587, Gali No.12, Majlis Park, Azadpur, Delhi. Voltd. One building is constructed on the plot No. 586 and 587 and me and my sister in law Geeta Sharma are residing in the said one building as one family. D

It is also correct that Smt. Geeta Sharma was also the owner of property bearing No. C-600, Gali No.12, Majlis Park, Azadpur, Delhi. It is correct that in the year 2008 a tenant namely Ashok Kumar was in the said property No. C-600. It is correct to suggest that the said property was sold by Geeta Sharma after getting the same evicted. Voltd. The half of the plot in the house constructed on the said plot No.C-600 was demolished due to widening of the road and therefore we got the same evicted and sold the same. E F

xxx xxx xxx

The building, in which the suit property is situated having three rooms, two stores, two kitchens, one pooja room and WC & Bath alongwith verandah on the ground floor; the first floor also consists of three rooms constructed on back portion of the first floor; and second floor also consists of three rooms constructed on back portion of the second floor. G

The respondent is a tenant in a room on first floor. The tenant Ghansar Singh is tenant in one room on first floor and one H

A room on second floor. It is correct that there was a tenant namely Ram Kewal in one room on second floor. It is also correct that I had filed an eviction petition against Ram Kewal alongwith present two eviction petitions against the tenants. It is also correct that Ram Kewal has vacated the said room and has given its possession to me.

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C I do not have any residential accommodation except the suit property. Along with me, my brother in law and his wife two daughters and one son are residing in the suit property. I prepare the food along with other family members in one kitchen. The second kitchen which I have stated as before is being used as a store as I am sharing the food with my brother in laws family. One property bearing no. 587 belongs to my brother in law, it is adjoining to the suit property and the accommodation as I have stated is under both the property which are jointly constructed...

D xxx xxx xxx”

E 4.6. The appellant led further evidence in support of her case and her brother-in-law, sister-in-law, niece and nephew were also examined as PW-2 to PW-5 respectively, who were duly cross-examined by the respondents.

F 4.7. The respondent, in his evidence, denied the allegations of lack of accommodation with the appellant and the alleged requirement of the suit premises.

G 5. In the order dated 21.11.2014, after thoroughly examining the material on record, the learned Rent Controller observed that the appellant was residing in a joint family consisting of her brother-in-law and the wife, two unmarried daughters and son of her brother-in-law and proceeded to hold that the assertions about bona fide requirement of the appellant were duly established. While referring to a decision of this Court in the case of *Dwarkaprasad v. Niranjan & Anr.*: (2003) 4 SCC 549, the Rent Controller also observed that the question of bona fide requirement could not be confined to the landlord alone and it would include the requirement of the family members, which would include appellant's brother-in-law, his wife and children as well. The relevant aspects of the findings of the Rent Controller could be usefully extracted

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as follows: -

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“17. Reverting back to the facts of the present case, the petitioner is residing in a joint family consisting of her brother-in-law, his wife, two unmarried daughters and a son. As discussed in the judgment of Hon’ble Supreme Court in the matter of Dwarka Prasad v. Niranjan & Anr. (Supra) the term “family”, of the landlord includes brother, sister and other near relatives. The bonafide requirement of the landlord cannot be confined to the landlord alone and it includes the requirement of the family member of the petitioner, which includes his brother-in-law, his wife, son and daughter of brother-in-law as well.

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18. Having reached to the conclusion that family of petitioner includes her brother-in-law, his wife and their children also, the present eviction petition is maintainable at the instance of the petitioner. Now, I shall proceed to discuss the bonafide requirement as claimed by the petitioner.

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19. Apparently, only two bedrooms are available with the petitioner/landlady. She alongwith her family consists of six members. Out of six members, two are young unmarried daughters and one is a teenage son. It goes without saying that young children require separate rooms to sleep and study. Three children of brother-in-law of petitioner require at least two bedrooms if two out of three share one bedroom. Similarly, they require at least one study room. The Petitioner’s brother-in-law and his wife require one bedroom. The petitioner also require a separate bedroom. One bedroom is also required for the temporary stay of married daughter of petitioner’s brother-in-law as she comes to the suit property to visit petitioner as well as her family and stay with the petitioner out of love and affection. The petitioner being an old lady also requires a puja room to spend her spare time to explore the spiritual path. She being an old lady also requires assistance of a servant to perform her daily chores and so needs one room for her servant. Hence, the need of rooms by the petitioner condensed to at least eight rooms, whereas she has only two bedrooms and it is not the business of the court to ask the petitioner to carve out the space for rooms from the existing drawing room, lobby, storerooms etc.

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20. The other ground taken for bonafide requirement is that the

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- A third daughter of her brother in law Ms. Charu Sharma wants to open play way to sustain herself and her family and she requires at least two rooms with toilet, kitchen and veranda for opening a play way. This fact has been mentioned in para no.9 of column no. 18(a) of the eviction petition and the same has not been denied in the written statement of the respondent. Further, no cross-examination on this point has been done either of the petitioner or Charu Sharma, who appeared as a witness on behalf of the petitioner. Thus, it seems that petitioner has accepted this ground of bonafide requirement. Therefore, the petitioner has proved by preponderance of probabilities that she requires the tenanted premises for her bonafide requirement.”
- 5.1. As regards the description of property, learned Rent Controller found the same duly clarified and not operating against bona fide requirement of the appellant with the following observations and findings:-
- D “21. So far as the sales of the property no. C-588 and C-600, Gali no.12, Majlis park, Azadpur, Delhi by petitioner’s brother-in-law and his wife are concerned, it is observed here that the said properties were sold on 23.06.2010 for consideration of Rs.16,00,000/- and there may be hundreds of reasons to sell the property and that too were in the year 2010. Therefore, this fact does not go against the bonafide need of the petitioner because at that time petitioner might not have felt the need for more accommodation.
- F 22. The tenant has failed to bring on record any document during trial that petitioner is the owner of other properties No. C-603 and E-591, Majlis Park, Delhi. The tenant has contradicted himself by saying in para no.11 of (page 6) of the written statement that petitioner is the owner of property no. 588, whereas in para no.18(a)(1), the devar of the petitioner has been shown the owner of property no. 588, Majlis Park.
- G 23. The petitioner in her cross-examination averred that the suit property has been constructed on two plots no. C-586 and C-587. On this aspect also, the respondent has failed to bring any contrary fact. Thus, the ownership of property No. C-587 also stands clarified to the effect that his devar’s wife property No. C- 587 is a part of the suit property.”
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5.2. In view of the above, the Rent Controller accepted the petition and ordered eviction of the tenant from the premises in question, being one room in the rear portion of the first floor of the building in question while granting him six months' time to vacate.

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6. It may be pointed out at this juncture that the other eviction petition bearing No. 03 of 2011 was filed by the appellant in relation to the other tenant who was having two rooms on rent, each on the first and second floor of the same property. Almost identical averments were taken in the said petition and more or less the same grounds of opposition were stated by the tenant. The said matter proceeded on similar evidence and the Rent Controller passed a similar order on the even date, i.e., 21.11.2014, while accepting the case of the appellant and similarly ordered eviction of the said tenant from the premises in question while granting six months' time to vacate. In view of similarity of factors concerning both the cases, we need not elaborate on the pleadings, evidence and findings in relation to the other petition.

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7. The aforesaid two revision petitions before the High Court against the aforesaid orders dated 21.11.2014 proceeded on similar grounds and came to be accepted by the High Court with almost identical orders. The High Court took the view that the appellant-landlord had not been forthright and had taken the pleadings in a misleading manner; and the availability of other property had not been clearly disclosed. Hence, the High Court formed the view that the appellant had failed to make out a case of bona fide requirement. The relevant part of the consideration and findings of the High Court could be usefully reproduced as under:-

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"5. A perusal of the eviction petition presented before the additional rent controller would show that the respondent had described herself as a resident of ground floor of property No.C- 586, Gali No.12, Majlis Park, Delhi-110033, the tenanted portion in possession of the petitioner having been described as one room in middle on the first floor, in the rear portion of the property. The tenanted premises was described to be part of the property bearing No.C-586, reference being made to its graphical depiction in the site plan (Annexure-'A') in colour red. The Copy of the site plan, which was filed with the eviction petition, it having been captioned as the site plan of property No.C-586, Gali No.12 & 13, Majlis Park, Delhi-110 033, would show the property to be a three storeyed structure, there being two bed rooms, one drawing room, atleast

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- A three rooms, besides kitchen, toilet, verandah and other areas (courtyard, staircase, etc.) at the ground floor and atleast three rooms on the first floor and the second floor (Ex.PW-1/16). Reliance was also placed on another site plan (Ex.PW-15) which would primarily depict the accommodation at the first and the second floor level, the said site plan also having been captioned as one of property No.C-586, Gali No.15, Majlis Park, Azadpur, Delhi. For clarity, it may be added here that there was no reference to property No.C-587 in the site plan, the impression thereby created being that the entire structure/accommodation depicted therein relates to property No.C-586 only.
- B 6. The respondent appeared as her own witness (PW-1) and during her cross-examination, she explained that her husband had passed away in 1999 and further that she does not have any child of her own, she not even having adopted any child. She, however, sought to explain in that context that she considered the children of her brother-in-law (*devar*) as her own children and that they had been residing with her since the very beginning. This clearly shows improvement being made over the case as originally set up.
- C 7. Be that as it may, PW-1 in cross-examination stated that she would not remember as to when she had purchased property No.C-586, Gali No.13, Majlis Park, Delhi. She admitted that Geeta Sharma, wife of her brother-in-law (Prem Kumar Sharma) for whose needs the eviction is sought is owner of property bearing No.C-587, Gali No.12, Majlis Park, Azadpur, Delhi. She also admitted that Geeta Sharma was residing in her property bearing No.C-587. It was at that stage that she would add that the plot No.586 and 587 had been joined for raising a construction of one building and that she and her sister-in-law Geeta Sharma are residing in that one building as one family.
- D 8. The argument raised against the above backdrop has been that the site plans (Ex.PW-1/5 and Ex.PW-1/6) depict a common building constructed over two adjoining plots, they bearing No. C- 586 and C-587. This argument cannot be accepted as it is not based on any pleadings to this effect. On the contrary, in the averments in the petition it was a clear case of the respondent/ landlady that the tenanted portion forms part of property No. C-586, which is depicted in the said site plan filed therewith.

9. Faced with the above argument, the counsel for the respondent/landlord sought to place reliance on pleadings in para 18(a)(ii) where it was, *inter alia*, mentioned that “*as stated above...the front portion of the property bearing No.C-586/587, Gali No.12, Majlis Park, Delhi-110003 comprises of only ground floor and is having two bed rooms, one drawing room, two kitchen, two latrine/bathroom, two small store rooms, one pooja room and one court yard and petitioner is presently having the aforesaid accommodation in her possession.*”

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10. It is correct on the part of the petitioner/tenant to argue that the pleadings in above nature are misleading. There is no reference to property No.C-587 in any of the earlier or even in the later part of the eviction petition. Therefore, the pleadings beginning with the expression “*as stated above*” were factually incorrect. There was no reference made to the right, title or interest of Geeta Sharma (wife of brother-in-law) in the property in question or the same having been built over two adjoining plots of land as a common super-structure. The respondent/landlady cannot be allowed to make out a new case beyond her own pleadings.

11. For the foregoing reasons, it must be held that the respondent landlady has failed to prove her case of *bona fide* need. Consequently, the impugned order dated 21.11.2014 is set aside. Her eviction petition is dismissed.”

8. Both the revision petitions were allowed by the High Court on the considerations aforesaid and the respective petitions seeking eviction were accordingly dismissed.

9. Assailing the orders so passed by the High Court, learned counsel for the appellant has strenuously argued that the orders impugned remain unsustainable in law, where the High Court has overstepped its jurisdiction under Section 25-B(8) of the Act of 1958. Learned counsel has referred to and relied upon the decision in the case of ***Abid-ul-Islam v. Inder Sain Dua: (2022) 6 SCC 30*** to submit that the High Court could not have reversed the findings of the fact recorded by the Rent Controller as regards the bona fide requirement on the ground of the so-called misdescription of the property and without considering the clarification before the Rent Controller and then the findings of the Rent Controller. Learned counsel would submit that the expressions “family” and

- A “dependent”, for the purpose of the Act of 1958, and particularly the bona fide requirement, deserve to be construed broadly and liberally so as to include the relatives of the landlord and not strictly to include wholly dependent persons only. The learned counsel has referred to and relied upon the aforesaid decision in the case of *Dwarkaprasad*.
- B 10. *Per contra*, learned counsel for the respondent-tenant would submit that on a bare perusal of the petition for eviction, it is clear that the appellant has not correctly described the location of the suit premises and then, had attempted to show that the premises were not situated at No. C-586 but at the front portion of C-586 and C-587. According to the learned counsel, the appellant had attempted to mislead the Court and had concealed the facts germane to the present case. It has also been submitted that when the brother-in-law of the appellant had sold the suit premises to the appellant, the bona fide requirement of the family members of the said brother-in-law of the appellant is obviously non-existent and the appellant, after having purchased the suit premises from her brother-in-law, would be rather estopped from claiming bona fide requirement as a ground for eviction of the respondents. It has been contended that the findings of the High Court are in accord with the material available on record which the Rent Controller had totally omitted to consider.
- C 11. Having given thoughtful consideration to the rival submissions and having examined the record, we are clearly of the view that the impugned orders cannot be sustained and the orders of eviction as passed by the Rent Controller deserve to be restored in these cases.
- D 12. In a conspectus of the entire matter, the essential salient features are that the premises in question were let out to the respective tenants for residential purposes. The appellant-landlord is said to be a widowed lady having no issues of her own but residing with her brother-in-law and other members of the family including the wife and children of her brother-in-law. The appellant-landlord is said to have acquired title to the property in question on being transferred by her brother-in-law; and has sought eviction of the respective tenants from suit premises on the ground that the premises were required bona fide by her for use and occupation of herself and the other members of her joint family. The petitions as filed by the appellant-landlord are governed by Section 14(1)(e) of the Act of 1958 that reads as under: -
- E “**14. Protection of tenant against eviction.**—(1) Notwithstanding anything to the contrary contained in any other

law or contract, no order or decree for the recovery of possession A
of any premises shall be made by any court or Controller in favour
of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, B namely—

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* * *

(e) that the premises let for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation.

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Explanation.—For the purposes of this clause, “premises let for residential purposes” include any premises which having been let for use as a residence are, without the consent of the landlord, used incidentally for commercial or other purposes;”

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13. As noticed, the Rent Controller accepted the case of the appellant regarding her bona fide requirement and ordered eviction of the respective tenants. The orders so passed by the Rent Controller were questioned by the tenants in respective revision petitions before the High Court. The High Court dealt with the said revision petitions in terms of Section 25-B(8) of the Act of 1958. The said Section 25-B provides special procedure for disposal of the applications for eviction on the ground of bona fide requirement and the revision petition in such matters is governed by Sub-section (8) thereof. The relevant provision could be usefully extracted as under: -

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“25-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement.—

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(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

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- A Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.”
- B 14. The contours of the limited jurisdiction under the said Section 25-B(8) have been delineated and explained by this Court in the case of *Abid-ul-Islam* (supra) with reference to several of the past decisions and in the following terms: -
- C “22. We are, in fact, more concerned with the scope and ambit of the proviso to Section 25-B(8). The proviso creates a distinct and unequivocal embargo by not providing an appeal against the order passed by the learned Rent Controller over an application filed under sub-section (5). The intendment of the legislature is very clear, which is to remove the appellate remedy and thereafter, a further second appeal. It is a clear omission that is done by the legislature consciously through a covenant removing the right of two stages of appeals.
- D 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.”
- E 15. It does not require much elaboration to say that as regards prayer for eviction on the ground of bona fide requirement, the intention of legislature has specifically been to provide for a distinct and special procedure and in that regard, no appeal or second appeal is envisaged against the order made by the Rent Controller in accordance with the
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procedure specified in Section 25-B of the Act of 1958. Only in terms of the proviso to Section 25-B(8), a limited window is allowed to the extent that the High Court may call for the record, for the purpose of satisfying itself that the order had been passed in accordance with law. It is but clear that under the said provision, pure finding of fact is not open for interference unless such a finding is given on a wrong premise of law.

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16. Having examined the present matters in totality, we are constrained to observe that the High Court has gone far beyond the limited scope of revision in terms of Section 25-B(8) of the Act of 1958. A bare look at the consideration of the High Court in the orders impugned makes it clear that the so-called want of clear description of the suit premises as also the identification and extent of the property available with the family has formed the principal consideration of the High Court. The High Court has examined the copy of site plan filed with the eviction petition and its caption describing it as Property No.C-586 with no reference to Property No.C-587. The High Court has noticed that when being cross-examined in relation to the availability of accommodation with the wife of her brother-in-law, the appellant stated that Plot Nos.586 and 587 were joined together for raising construction of one building. Such evidence and the related arguments were found unacceptable by the High Court for being not based on pleadings. With respect, we are unable to endorse the approach of the High Court.

17. A comprehensive look at the pleadings taken by the appellant along with the site-plan attached to the petition makes it evident that the appellant gave out a detailed description of the extent of accommodation available in the suit property as also the accommodation presently in her occupation and the nature and extent of her requirement. In the pleadings, it was indeed specified that the appellant was residing on the property bearing No. “C-586/587”. The pleadings taken by the appellant in paragraph 18(a)(ii) of her petition, of course, begin with the expression “*as stated above*” and there had not been any earlier mention of property bearing No. “C-586/587” but, there had been detailed description in the preceding paragraphs and the site plan was also attached to the petition. The appellant further made the position clear in her cross-examination that the building in question was constructed on Plot Nos.586 and 587 jointly and she and her sister-in-law were residing in the same building as one family.

18. Taking the pleadings as a whole and reading the same with

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- A the evidence, it is clear that there had not been any such misdescription of the property which would amount to a material flaw in the case of the appellant or which could have caused prejudice to the respondents-tenants.

19. Noteworthy it is that it had not been the case of the respondents

- B that they were not the tenants in the premises in question. The only attempt on the part of the respondents had been to suggest that other properties and accommodations were available with the family. Such suggestion on the part of respondents had not been accepted by the Rent Controller as operating against the assertion of bona fide requirement C of the appellant. Such findings of the Rent Controller had essentially been the findings of facts on the basis of evidence on record. There was no scope for upsetting such findings on a rather vague ground of want of clarity about description of the property in question.

20. It is also noteworthy that the case of vast and extensive

- D requirements, as stated by the appellant and accepted by the Rent Controller has, as such, neither been negated nor rejected by the High Court.

- E 21. In the aforesaid view of the matter, we need not elaborate on the other aspects as to whether the members of the family of the brother-in-law of the appellant could be taken as her dependents for the purpose of the eviction in terms of Section 14(1)(e) of the Act of 1958.

- F 22. It would, of course, appear from the material placed on record that the appellant as also her brother-in-law and the other referred members of the family might be having title or interest in some other properties too but, such an aspect would hardly operate against the appellant, when her prayer for eviction had been accepted by the Rent Controller on valid grounds and with cogent reasons.

- G 23. Upshot of the discussion is that the findings on bonafide requirement of the appellant in relation to both these cases could not have been disturbed by the High Court on a rather nebulous and vague ground of want of clarity about identification of the property in question. Thus, the impugned orders deserve to be set aside and the orders of eviction deserve to be restored.

- H 24. In view of the above, these appeals succeed and are allowed; the impugned orders dated 17.04.2018 passed by the learned Single

Judge of the High Court in RC. REV. Nos.78 of 2015 and 80 of 2015 are set aside and the respective orders dated 21.11.2014 passed by the Rent Controller in eviction petitions bearing Nos. 02 of 2011 and 03 of 2011 are restored.

24.1. However, having regard to the circumstances of the case and looking to the length of this litigation and the old tenancies, the respective respondents are granted time to vacate the suit premises by 31.12.2023 on the condition of their depositing the entire due rent before the Rent Controller within four weeks from today as also on their submitting usual undertaking before the Rent Controller to continue to make payment of rent/mesne profits and to vacate the suit premises within the time granted by this Court and not to assign, sub-let or part with the same and not to cause prejudice to the appellant-landlord in relation to the premises in question in any manner.

25. The parties are left to bear their own costs.

Ankit Gyan
(Assisted by : Aarsh Choudhary, LCRA)

Appeals allowed.