

Sita Ram & Son vs Manoj Kumar Jain on 27 March, 2025

Author: Manoj Kumar Ohri

Bench: Manoj Kumar Ohri

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 27.03.2025

+ RC.REV. 81/2019 & CM APPL. 8540/2020

SITA RAM & SON

.....Petitioner

Through: Mr. Rakesh Mukhija and Ms. Pooja
Makhija and Ms. Samridhi Makhija,
Advocates

versus

MANOJ KUMAR JAIN

.....Respondent

Through: Mr. Ashok Gurnani and Mr. Abhishek
Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present revision petition filed under Section 25-B(8) of the Delhi Rent Control Act 1958 (hereinafter, referred to as 'DRC Act'), the petitioner/tenant seek to assail order dated 20.08.2018 passed by the Court of the Additional Rent Controller, Tis Hazari Courts, District Central, Delhi in 'Eviction Petition No.430/2018', titled 'Manoj Kumar Jain v. Sita Ram & Sons,' vide which an eviction order was passed in favour of the respondent/landlord herein, for recovery of tenanted premises, i.e., Shop Bearing No.2668, situated on the Ground Floor, Gali Anar, Kinari Bazar, Delhi-110006 (hereinafter, 'subject property').

2. Notably, the eviction petition came to be filed by the respondent/landlord under Section 14 (1) (e) of the DRC Act, thereby seeking the petitioner's eviction from the aforesaid subject property on the RC.REV. 81/2019 Page 1 of Signed Digitally 4 By:GAUTAM ASWAL Signing Date:05.04.2025 15:47:18 grounds of bonafide requirement of the respondent's son - Mr. Akshay Jain. It was stated that the petitioner was inducted in the tenanted premises by the erstwhile owner Shri Raj Bahadur from whom the respondent along with his brother Mukesh Kumar Jain jointly purchased the property. It was further claimed that the subject property was partitioned amongst the brothers, and as a result of which the tenanted shop came to the share of the respondent herein. The respondent was receiving rent from the present petitioner. The impugned order records that the petitioner was duly served with the summons on 25.07.2018 and was required to file its leave to defend application within a statutory period of 15 days, which concededly expired on 09.08.2018. Despite being served,

the petitioner neither filed its leave to defend application nor appeared before the ARC leading to passing of the impugned order on 20.08.2018.

3. In the present proceedings, the petitioner has filed an additional affidavit thereby seeking to explain the reasons for non-filing of the leave to defend application before the ARC. The only submission made is that the petitioner's mother was hospitalized and for which reason he could not attend to the present case. The petitioner has enclosed the medical records of GB Pant Hospital to support his claim. The petitioner further relied upon the decision of the Division Bench of this Court in 'Director Directorate of Education and Anr. v. Mohd. Shamim & Ors.'¹ to canvass that though the ARC may not be empowered to recall the said order, the same would not prevent this Court from exercising powers under proviso to Section 25 (B) (8) of the DRC Act to declare if an order of eviction has been made in accordance with the law.

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4. Pertinently, the present is not a case where the tenant on having been served appeared before the ARC or filed its leave to defend application beyond the period stipulated under the Act with an application for condonation of delay, but a case where the tenant has neither filed any application for leave to defend nor appeared on that date or any subsequent date before the ARC. The petitioner's justification for non-appearance/non-filing of an application for leave to defend is the hospitalization of his mother. A perusal of the medical record of the petitioner's mother placed on record would show that that she was discharged from the hospital on 13.07.2018. The petitioner was served with the summons in the eviction petition on 25.07.2018 i.e., 12 days after the discharge of petitioner's mother. Though the petitioner had 15 days at its disposal to file its leave to defend application, the same was not done. Though the petitioner tried to take cover by alleging that it was the respondent who discouraged him by stating that the eviction petition would be withdrawn, the said averment is nothing but moonshine. Moreover, the petitioner's only justification i.e. hospitalization of his mother has been found to be completely incorrect, as she was discharged prior to the service of summons upon the petitioner. Consequently, the explanation offered is meritless and is accordingly rejected. Even otherwise, a perusal of the record of ARC would show that the petition was accompanied by the sale deed of the subject premises in favour of the respondent. Further, in the present proceedings, the petitioner has not denied the landlord-tenant relationship. In absence of any other challenge, the bona fide need shown by the respondent for the shop for his son to carry on the business is held to be bona fide.

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5. Resultantly, the petition has no merit and is accordingly dismissed along with pending application.

MANOJ KUMAR OHRI
(JUDGE)

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