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Sahi Ram vs.satpal

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Court : Delhi

Decided On : Jan-19-2017

Appellant : Sahi Ram

Respondent : Satpal

Judgement :

$~A-20 * % + RC.REV. 415/2013 Date of decision:

19. 01.2017 IN THE HIGH COURT OF DELHI AT NEW DELHI SAHI RAM SATPAL Through Mr.Sunil Fernandes, Advocate with .....

... Petitioner
Mr.Puneeth, K.G. versus Through Mr.P.D.Gupta, Sr.Adv. with Mr. ..... Respondent Abhishek Gupta, Advocate. CORAM: HON'BLE MR. JUSTICE JAYANT NATH JAYANT NATH, J.

(ORAL) 1. The present Revision Petition is filed under section 25-B (8) of The Delhi Rent Control Act, 1959 (hereinafter referred to as The DRC Act) seeking to challenge the order dated 26.9.2013 by which order the Eviction Petition filed by the petitioner under section 14(1)(e) of the DRC Act was dismissed.

2. The petitioner/landlord filed an Eviction Petition against the respondent/tenant in respect of shop No.378/1, Ground Floor, Hanuman Market, Munirka, New Delhi. It was averred in the petition that the petitioner is a senior citizen of 82 years of age. He is unable to undertake any work to earn his livelihood by himself and his family

comprises of 12 members dependent upon him. The family it was averred is a joint family consisting of his wife, two sons, namely, Shri Hari Singh and Naval Singh. Both the sons have their respective families i.e. wife and three children each. It was averred that the two sons of the petitioner are unemployed and want to RC.REV. 415/2013 Page 1 of 19 start their own business to earn their livelihood. The elder son Shri Hari Singh it was stated wants to start his own business of Motor Parts and Accessories or any other appropriate business, which may be beneficial.

3. In the written statement the salient objections taken by the respondent to oppose the petition were as follows:-

"(i)The petitioner has been pressurizing the respondent to increase rent. Initially, the premises was let out @ Rs.75/- per month. Thereafter it has been increased to Rs.2,200/- per month. Hence, the Eviction Petition is filed with a view to coerce the respondent to increase the rent. (ii) The petitioner has recently re-let four shops. One shop has been re-let to Shri Kashi Ram @ Rs.8,000/- per month whereas the previous rate was Rs.2,000/- per month. Second shop has been re-let to M/s.Momina Handlooms @ Rs.8,000/- per month whereas the previous rent was Rs.2,700/- per month. The third shop has been re-let to one Shri Yogit Shaili @ Rs.8,000/- per month whereas the previous rent was Rs.2,500/- per month. The fourth shop have been re-let to Shri Harish Kalra @ Rs.8.000/- per month whereas the previous rent was Rs.2,000/- per month. Hence, there is no bonafide requirement. (iii) Most portions of the building where the tenanted premises is situated has been let out by the petitioner and the petitioner is approximately earning Rs.60,000/- per month. The petitioner has been indulging in letting/re-letting of different portions on enhanced rent and there is no bona fide requirement involved. (iv) None of the family members of the petitioner are dependent upon him. The two sons of the petitioner as well as the petitioner with the family are settled in village Tauru in Haryana and are independently and actively RC.REV. 415/2013 Page 2 of 19 engaged in agriculture work. The family possesses huge tracts of agricultural land and are living there with independent source of livelihood.

4. Parties have led their evidence before the ARC. The petitioner led his own evidence as PW-1. The respondent stepped into the witness box as RW-1.

5. The ARC has gone through the evidence adduced by the parties and come to factual conclusions. Based on these conclusions the ARC records that the petitioner has failed to show that he requires the premises boanfide.

6. The conclusion of the ARC that the petition lacks bonafide is based on the following recorded facts by the ARC. (i) The petitioner and his family resides in Delhi and in Village Tauru, Haryana where the family has large tracts of agricultural land. Hence, the petitioner does not permanently reside in Delhi. The petitioner and his family live in Delhi and in the Village Tauru on rotational basis. One of the facts which led to this conclusion is that the petitioner claims to be residing in a flat on plot No.378. His family comprises of 12 persons and all the members cannot stay in the flat. Hence it is concluded that the family resides in Delhi and Tauru Village on rotational basis. (ii) The petitioner has also filed another eviction peititon regarding another tenant in the same building i.e. Sh.Sunil. The present demised premises is situated on the ground floor. The shop of Sh.Sunil is also on the ground floor. The ground floor has six shops. Rental of the demised premises and the premises rented to Sh.Sunil is Rs.2,200/- per months. They are protected tenancies under the Delhi Rent Control Act. Remaining shops are presently fetching rental of Rs.11,000/- per month. Earlier the rate of rent was much lower but was enhanced to Rs.8,000/- per month and now is RC.REV. 415/2013 Page 3 of 19 Rs.11,000/- per month. There are 13 tenants on the first floor of the premises. Out of which, some tenants are paying less than Rs.3,000/- per month. Other tenants are paying rent at the rate of Rs.5,000/-. Hence, it is concluded that the petitioner has gone for enhancement of the rent wherever possible and has now targeted the present respondent and the other tenant Sh.Sunil of Shop No.5 to have them evicted. The order notes that the reasons for choosing to file eviction petition particularly against the present respondent and Sh.Sunil who are the only protected tenants under the Delhi Rent Control Act remained unexplained. (iii) The order notes that the requirement stipulated by the petitioner is for the earning of livelihood for himself including his son Sh.Hari Singh who is said to be almost unemployed. The order further notes

that said Sh.Hari Singh has no experience of particular business of motor parts and accessories which he seeks to start. The order also notes that there is nothing on record to show why the petitioners son has chosen this particular business. The order also notes that disclosure of such facts may become of importance only in the peculiar facts of a particular case. (iv) The order notes that Sh.Hari Singh is almost unemployed but his income is nowhere provided in the affidavit of evidence. Based on the above facts, the ARC concluded that there is no bonafide requirement established and the petitioner is only seeking enhancement of rent.

7. I have heard learned counsel for the parties. Learned counsel for the petitioner has vehemently argued that the findings recorded by the ARC about the petitioners son having no experience in running motor parts business is entirely misplaced. He submits that this fact is irrelevant as per RC.REV. 415/2013 Page 4 of 19 settled legal position. He relies upon the judgment of the Supreme Court in Ram Babu Agarwal vs. Jay Kishore Das, 2009 (2) RCR455 He further submits that merely because the petitioner has agricultural lands in his village and is also looking after the said agricultural lands does not mean that he and his family have to be permanently located to live in the village and take care of the agricultural lands. Village Tauru is not far from Delhi and the petitioner and his family have residential accommodation available in Delhi. The son of the petitioner has a honest desire to start work in the town of Delhi. On the issue as to why the respondents have been targeted by way of filing an Eviction Petition, the learned counsel has submitted that it is the choice of the landlord as to which premises he would like to have evicted. The respondents cannot doubt the bonafide of the same. It is further submitted that the petitioner never inducted any new tenant as falsely alleged. The old tenants have on their own voluntarily enhanced the rents. The old tenants have continued. Hence, it is urged that there is no attempt to enhance the rent of the respondent by filing this petition.

8. Learned senior counsel appearing for the respondent has reiterated the submissions as recorded in the written statement. It is reiterated that the only object of the petitioner is to get rents enhanced. The petitioner has been repeatedly getting properties vacated and has been demanding additional rent. It has also been urged that the petitioners have alternative accommodation available

and inasmuch as they could have filed an Eviction Petition against one of the shops where the rent is above Rs.3,500/- per month and which are not protected under the Delhi Rent Control Act. He submits that getting an eviction order passed for such a premises would have been an easy and quicker task. Yet, instead, for mala fide intentions the RC.REV. 415/2013 Page 5 of 19 petitioner has chosen to file the present Eviction Petition against the respondent who is a tenant protected under the DRC Act.

9. Section 14(1)(e) of the DRC Act reads as follows: of tenant against 14.Protection (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by and court or Controller in favour of the landlord against a tenant: eviction.- 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, namely:-

"xxxxx (e) that the premises let for residential purpose 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 the landlord or such person has no other reasonably suitable residential accommodation. In view of the judgment of the Supreme Court in the case of Satyawati Sharma (dead) by LRs vs. Union of India & Anr., AIR 2008 SC3148the aforesaid provision is also now made applicable to commercial properties.

10. The essential ingredients which a landlord/peitioner is required to show for the purpose of getting an eviction order for bona fide needs are (i) the respondent is the owner/landlord of the suit premises (ii) the suit premises are required bona fide by the landlord for himself and any of his family members dependent upon him. (iii) the landlord or such other family members has no other reasonable suitable accommodation. RC.REV. 415/2013 Page 6 of 19 11. I may first look at the findings of fact recorded by the ARC which persuaded him to come to a conclusion that the requirements projected by the petitioner in his eviction petition does not show any bona fide requirement. The ARC concludes that the petitioner and his

family by rotation live in Delhi and village Tauru and cannot be said to be permanently based in Delhi. Admittedly, they have a flat in Delhi and have rented accommodation in Delhi from which the petitioner is earning Rs. one lac per month. The other aspects stressed by the ARC is that on the ground floor of the premises where the tenanted premises is situated there are six shops. The rental of the demised premises is Rs.2,000/- per month. There is a second premises whose tenant Shri Sunil/Sushil is also paying Rs.2,200/- per month. Remaining four shops are fetching rent of Rs.11,000/- per month. Earlier the tenants were paying the rent of Rs.1,000/- per month and subsequently the rent has been enhanced to Rs.8,000/- per month and then to Rs.11,000/- per month. Similarly, there are 13 tenants on first floor. Some of the tenants are paying rent below Rs.3,500/- per month and are protected tenants under the Delhi Rent Control Act. Some are paying the rent more than Rs.3,500/- per month and are not protected tenants under the DRC Act. Based on these facts the ARC concludes that the petitioner has gone for enhancement of rent wherever possible. He has targated the present respondent and the tenant of shop No.5 (Shri Sunil/Sushil) who are the only two tenants on the ground floor who are protected tenants under the Delhi Rent Control Act. He has chosen to only file eviction petitions against the respondent and the said Shri Sunil/Sushil without giving any explanation. No doubt, the ARC concludes that he is entitled to seek an eviction of a tenant who is paying a lesser rent compared to a tenant who is paying higher rent but the landlord must justify RC.REV. 415/2013 Page 7 of 19 as to why he seeks eviction of a particular tenant when he has other tenanted shops available in the same premises. There is no explanation or averment that these particular premises are more suitable for the business. Hence, the ARC concluded that the petitioner has failed to prove his bona fide requirement projected and dismissed the eviction petition.

12. I may see the legal position regarding the bona fide requirement. The Supreme Court in Atma S.Berar vs. Mukhtiar Singh, (2003) 2 SCC3 (MANU/SC/1126/2002), explained the bona fide requirement as follows:-

"One of the grounds for eviction contemplated by all the rent control legislations, which otherwise generally lean heavily in favour of the tenants, is the need of the

owner landlord to have his own premises, residential or non-residential, for his own use or his own occupation. The expressions employed by different legislations may vary such as 'bona fide requirement', 'genuine need', 'requires reasonably and in good faith', and so on. Whatever be the underlying legislative intent is one and that has been demonstrated in several judicial pronouncements of which we would like to refer to only three. the expression employed, In Ram Dass Vs. Ishwar Chander & Ors., (1988) 3 SCC131 M.N. Venkatachaliah, J.

(as His Lordship then was) speaking for the three-Judges Bench, said "Statutes enacted to afford protection to tenants from eviction on the basis of contractual rights of the parties make the resumption of possession by the landlord subject the satisfaction of certain statutory conditions. One of them is the bona fide requirement of the landlord, variously described in the statutes as "bona fide requirement", "reasonable fide and reasonable requirement" or, as in the case of the present statute, merely referred to as "landlord requires for his own use". But requirement", "bona to RC.REV. 415/2013 Page 8 of 19 the essential idea basic to all such cases is that the 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."

In Gulabbai Vs. Nalin Narsi Vohra & Ors., (1991) 3 SCC483 reiterating the view taken in Bega Begum Vs. Abdul Ahad Khan, (1979) 1 SCC273 it was held that the words "reasonable requirement" undoubtedly postulate that there must be an element of need as opposed to a mere desire or wish. The distinction between desire and need should doubtless be kept in mind but not so as to make even the genuine need as nothing but a desire. Recently, in Shiv Sarup Gupta Vs. Dr. Mahesh Chand Gupta, (1999) 6 SCC222 this Court in a detailed judgment, dealing with this aspect, analysed the concept of bona fide requirement and said that the

requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contradistinction with a mere pretence or pretext to evict a tenant refers to a state of mind prevailing with the landlord. The only way of peeping into the mind of the landlord is an exercise undertaken by the judge of facts by placing himself in the armchair of the landlord and then posing a question to himself ___ Whether in the given facts, substantiated by the landlord, the need to occupy the premises can be said to be natural, real, sincere, honest?. If the RC.REV. 415/2013 Page 9 of 19 answer be in positive, the need is bona fide. We do not think that we can usefully add anything to the exposition of law of requirement for self occupation than what has been already stated in the three precedents. In Sarla Ahuja vs. United India Insurance Company Limited, AIR 1999 SC100the Supreme Court held as follows:-

"the Rent Controller shall not proceed on 14. The crux of the ground envisaged in Clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord in bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting 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. (emphasis added) In Shiv Sarup Gupta vs. Dr.Mahesh Chand Gupta, (supra) the Supreme Court held as follows:-

"13. Chambers 20th Century Dictionary defines bonafide to mean 'in good faith: genuine'. The word 'genuine' means 'natural; not spurious; real: pure: sincere'. In Law Dictionary, Mozley and Whitley define bonafide to mean 'good faith, without fraud or deceit'. Thus the term bonafide or genuinely refers to a state of mind. Requirement is not a mere desire. The degree of intensity contemplated by 'requires' is much more higher than in mere desire. The phrase 'required bonafide' is suggestive of legislative intent that a mere desire which is outcome of whim or

fancy is not taken note of by the Rent Control Legislation. A requirement in RC.REV. 415/2013 Page 10 of 19 the sense of felt need which is an outcome of a sincere, honest desire, in contra-distinction with a mere pretence or pretext to evict a tenant, on the part of the landlord claiming to occupy the premises for himself or for any member of the family would entitle him to seek ejectment of the tenant. Looked at from this angle, any setting of the facts and circumstances protruding the need of landlord and its bonafides would be capable of successfully withstanding the test of objective determination by the Court. The Judge of facts should place himself .in the arm chair of the landlord and then ask the question to himself-whether in the given facts substantiated by the landlord the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive, the need is bonafide. The failure on the part of the landlord to substantiate the pleaded need, or, in a given case, positive material brought on record by the tenant enabling the court drawing an inference that the reality was to the contrary and the landlord was merely attempting at finding out a pretence or pretext for getting rid of the tenant, would be enough to persuade the Court certainly to deny its judicial assistance to the landlord. Once the court is satisfied of the bonafides of the need of the landlord for premises or additional premises by applying objective standards then in the matter of choosing out of more than one accommodation available to the landlord his subjective choice shall be respected by the court. The court would permit the landlord the accommodation which the landlord feels would be most suited .for the purpose; the court would not in such a case thrust its own wisdom upon the choice of the landlord by holding that not one. but the other accommodation must be accepted by the landlord to satisfy his such need. In short, the concept of bonafide need or genuine requirement needs a practical approach instructed by realities of life. An approach either too liberal or two conservative or pedantic must be guarded against. the proven need by choosing to satisfy 14. The availability of an alternate 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, RC.REV. 415/2013 Page 11 of 19 may have an adverse bearing on the finding as to bonafides of the landlord if he unreasonably refuses to occupy

the available premises to satisfy his alleged need. (emphasis added) 13. Hence, the legal position is that when a landlord requires his premises for his own occupation and a landlord shows a prima facie case, it is open to the rent controller to draw a presumption that requirement of the landlord is bona fide.

14. Coming to the facts of this case. There are only two basic grounds on the basis of which the ARC has concluded that the requirements of the petitioner are not bona fide i.e. firstly enhancement of rent by some of the tenants and secondly the fact that the petitioner has chosen to file an eviction petition against the two tenants who are protected under the DRC Act without giving any explanation. No eviction petition is filed against tenants paying higher rent.

15. As far as the first aspect is concerned, the admitted position on record is that the tenants who are existing tenants have themselves voluntarily agreed to enhance the rents after negotiation of the petitioner. There is no finding recorded that old tenants have been evicted and new tenants inducted at higher rents. This is clear from the findings recorded by the ARC. This is also clear from the cross-examination of the respondent RW-1 where he says that he cannot say as to whether the tenants have been occupying the respective shops for the last 15-20 years. Mere enhancement of rent by existing tenants cannot be a basis to conclude that there is lack of bona fide on the part of the petitioner. There can be nothing wrong with landlord tenant negotiatiing whereby the tenant voluntarily increases the rent. Such a RC.REV. 415/2013 Page 12 of 19 course of action cannot lead to the conclusion that the present petition fails to show a bona fide need.

16. The other aspect which has influenced the conclusion of the ARC is the fact that there is no explanation given as to why the petitioner has chosen to file an eviction petition only against the respondent and Shri Sushil i.e. the only tenants protected under the DRC Act. The admitted position is that there are six shops on the ground floor. Eviction Petition is filed against the two tenants who are paying rent below Rs.3,500/- per month i.e. who were covered by the provisions of the DRC Act. There six shops are on the ground floor and all are obviously equally suitable. Where six shops are equally well suited and the landlord requires only

two shops for his bona fide requirements his choice of seeking eviction of the tenants who are paying lesser rent can not in any manner lead to a conclusion of lack of bona fide. It does not in any manner make the projected requirement dishonest or tainted. All things being equal, a landlord may choose to file an eviction petition against a tenant paying the least rent. Such a choice will not imply that the petition lacks bona fide.

17. In this context, reference may be had to the judgment of the Supreme Court in Anil Bajaj & Anr. vs. Vinod Ahuja, AIR 2014 SC2294 That was a case where the landlord owned several properties in the vicinity of the tenanted premises. The Supreme Court held as follows:-

"6. In the present case it is clear that while the landlord (Appellant No.1) is carrying on his business from a shop premise located in a narrow lane, the tenant is in occupation of the premises located on the main road which the landlord considers to be more suitable for his own business. The materials on record, in fact, disclose that the landlord had RC.REV. 415/2013 Page 13 of 19 the offered to the tenant the premises located in the narrow lane in exchange for the tenanted premises which offer was declined by the tenant. It is not the tenant's case that the landlord-Appellant No.1 does not propose to utilize the tenanted premises from which eviction is sought for the purposes of his business. It is also not the tenant's case that the landlord proposes to rent out/keep vacant tenanted premises after obtaining possession thereof or to use the same is any way inconsistent with the need of the landlord. What the tenant contends is that the landlord has several other shop houses from which he is carrying on different business and further that the landlord has other premises from where the business proposed from the tenanted premises can be effectively carried out. It would hardly require any reiteration of the settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilized by him for the purpose of his business. Also, the fact that the landlord is doing business from various other premises cannot foreclose his right to seek eviction from the tenanted premises so long as he intends to use the said tenanted premises for his own business. The grounds on which leave to defend was sought by the tenant and has been granted by the High Court runs counter to the fundamental

principles governing the right of a tenant to contest the claim of bonafide requirement of the suit premises by the landlord under the Delhi Rent Control Act, 1958. Even assuming the assertions made by the tenant to be correct, the same do not disclose any triable issue so as to entitle the tenant to grant of leave to defend. 18. Hence, the settled position of law is that it is not for the tenant to dictate to the landlord as to how property belonging to the landlord should be utilized so long as the landlord intends to use the tenanted premises for his own business.

19. I may now deal with the findings recorded by the ARC that the elder son of the petitioner Shri Hari Singh does not possess enough experience to RC.REV. 415/2013 Page 14 of 19 run motor parts shops. The ARC has dealt in detail with the said submission. However, the order itself notes that prior experience in running of a business would not be mandatory when dealing with a petition under section 14(1)(e) of the DRC Act. In the above context, reference may be had to the judgment of the Supreme Court in Ram Babu Agarwal vs. Jay Kishan Das (supra) wherein it was held as follows:-

"6. However, as regards the question of bona fide need, we find that the main ground for rejecting the landlords petition for eviction was that in the petition the landlord had alleged that he required the premises for his son Giriraj who wanted to do footwear business in the premises in question. The High Court has held that since Giriraj has no experience in the footwear business and was only helping his father in the cloth business, hence there was no bona fide need. We are of the opinion that a person can start a new business even if he has no experience in the new business. That does not mean that his claim for starting the new business must be rejected on the ground that it is a false claim. Many people start new businesses even if they do not have experience in the new business, and sometimes they are successful in the new business also. 20. This court in Puran Chand Aggarwal v. Lekh Raj, 210 (2014) DLT131held as follows: 26. As far as business is concerned, it is not necessary that the landlord must show some evidence that he has experience of said business. That is not the requirement of law in order to file the eviction petition on the grounds of bonafide requirement.

27. The following judgments do help the case of the respondent: Start new business/no experience required (i) Jay Kishan Das, MANU/SC/1719/2009: (2010) 1 SCC164 it was observed that In Ram Babu Agarwal vs. RC.REV. 415/2013 Page 15 of 19 In Tarsem Singh vs. Gurvinder "A person can start a new business even if he has no experience in the new business that does not mean that his claim for starting new business must be rejected on the ground that it is a false claim. Many people start new businesses even if they do not have experience in the new business and sometimes they are successful in the new business also."

(ii) Singh, MANU/DE/2640/2010:

173. (2010) DLT379 it was observed that "If the landlord wants to start his own business in the premises owned by him then by no stretch of imagination, it can be said that the requirement of the landlord for the premises is neither bonafide nor genuine."

(iii) In Balwant Singh Chowdhary & Anr. vs. Hindustan Petroleum Corporation Ltd., 2004 (1) RCR487 it was held that "It is not necessary for the landlord to plead and prove the specific business he wants to set up, if the landlord wanted the premises for business purposes."

(iv) In Gurcharan Lal Kumar vs. Srimati Satyawati & Ors., MANU/DE/1078/2013:

2013. (2) RCR (Rent) 120 it was observed that "Merely because the exact nature of business has not been described would not take away their bonafide need to carry out a business (when admittedly both the sons are dependent upon petitioner for this need). It was observed that if the business need is not disclosed this would not wipe away the bonafide need of the landlord as has been pressed under Section 14(1)(e) of the DRCA, 1958."

(v) In Raj Kumar Khaitan & Ors. vs. Bibi Zubaida Khatun & Anr., MANU/SC/0411/1995: AIR 1995 SC576 it was observed that "It was not necessary for the appellants-landlords to indicate the precise nature of the business which they intended to start in the premises. Even if the nature of business would have been indicated nobody would bind the landlords to start the same business in the

premises after it was vacated. RC.REV. 415/2013 Page 16 of 19 21. Hence, the legal position is quite clear. The landlord need not show evidence that his son has experience of running the said business. It is also not necessary for landlord to indicate the precise nature of business which he intends to start in the premises. In light of the settled legal position, the observations in the impugned order that the elder son of the petitioner does not have experience in running motor parts and accessories business is a misplaced observation. There are no peculiar facts in the present case which would warrant any relevance being given to the fact that the elder son of the petitioner does not have any experience in motor parts business.

22. I may further point out that in the Eviction Petition the stand of the petitioner is that the said Shri Hari Singh the elder son seeks to start a business of motor spare parts and accessories or other appropriate business which may be found more beneficial at the relevant time. Hence, the object is to start their own business in the town and it is not necessarily confined to motor parts and accessories. The observations in the impugned order are entirely misplaced.

23. This court is exercising its revisionary powers. The scope of the present petition is limited. The Supreme Court in Shiv Sarup Gupta vs. Dr.Mahesh Chand Gupta, (1999) 6 SCC222(MANU/SC/0132/1999) described the revisional powers of this court as follows:-

"interesting 11. The phraseology of the provision as reproduced hereinbefore provides an in juxtaposition with the phraseology employed by the Legislature in drafting Section 115 of the CPC. Under the latter provision the exercise of revisional jurisdiction of the High Court is circumscribed by the subordinate court having committed one of the three errors, namely (i) having exercised jurisdiction not reading placed RC.REV. 415/2013 Page 17 of 19 so limited as the expression governing vested in it by law, or (ii) having failed to exercise a jurisdiction so vested, or (iii) having exercised its jurisdiction with illegality or material irregularity. Under the proviso to Sub-section (8) of Section 25B, the exercise of revisional jurisdiction by the High Court is 'for the purpose of satisfying if an order made by the Controller is according to law'. The revisional jurisdiction exercisable by the

High Court under Section 25B(8) is not is under Section 115 C.P.C. nor so wide as that of an Appellate Court. The High Court cannot enter into appreciation or re-appreciation of evidence merely because it is inclined to take a different view of the facts as if it were a court of facts. However, the High Court is obliged to test the order of the Rent Controller on the touchstone of "whether it is according to law'. For that limited purpose it may enter into re-appraisal of evidence, that is, for the purpose of ascertaining whether the conclusion arrived at by the Rent Controller is wholly unreasonable or is one that no reasonable person acting with objectivity could have reached that conclusion on the material available 24. Hence, this court is to test the order of the ARC to see whether it is according to law, and whether the conclusions are not wholly unreasonable. For the said purpose this court may re-appraise the evidence to ascertain whether the conclusions arrived are wholly unreasonable or not.

25. In view of my above observations, there are no basis to conclude that the petitioner does not want the premises bona fide. It is obvious that the petitioner and his family do not have any business in Delhi or in Tauru Village. No such business has been brought on record. Petitoner has agricultural lands in his own village on which they are toiling. His sons wish to start business in the town. There is no allegation that the son of the RC.REV. 415/2013 Page 18 of 19 petitioner is carrying on any other businsess in Delhi or Tauru. This petition cannot said to be a mala fide or a malicious attempt to oust the respondent as has been held by the ARC.

26. It is manifest that the impugned order passed by the ARC suffers from material illegality. There are errors apparent in the order. From the findings of facts recorded by the ARC, the conclusions in the order are wholly contrary to the settled legal position. The impugned order is accordingly liable to be quashed. The impugned order is quashed. An Eviction order is passed in favour of the petitioner. The respondents are directed to vacate the tenanted premises. However, in terms of section 14(1) of the DRC Act the petitioner is granted six months time to vacate the premises.

27. Petition is accordingly allowed. All pending applications, if any, also stand disposed of. (JAYANT NATH) JUDGE JANUARY19 2017 n RC.REV. 415/2013 Page 19 of 19

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