

(2026) 08 DEL CK 4295

In the Delhi High Court, Principal Bench, New Delhi

Case No : RC.REV. 259/2026, CM APPL. 50177/2026 (Stay), CM APPL. 50178/2026 (Ex.), CM APPL. 50179/2026 (Ex.) & CM APPL. 50180/2026 (Delay of 10 days Re-filing the petition)

Mohd Ikhalq

APPELLANT

Vs

Zamiruddin & Anr.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Delhi Rent Control Act, 1958 — Section 25-B(8), 14(1)(e), 25-B
Indian Evidence Act, 1872 — Section 116

Citation : (2026) 08 DEL CK 4295

Hon'ble Judges : Harish Vaidyanathan Shankar, J

Bench : Single Bench

Advocate : Mr. Mohsin Sarwar, Advocate

Judgement

1. The present Petition has been filed under Section 25-B(8) of the **Delhi Rent Control Act, 1958**¹ challenging the **Order dated 20.04.2026**² passed by the **learned Additional Rent Controller, Central District, Tis Hazari Courts, Delhi**³, in case being **RC-ARC/108/2022**, titled "*Zamiruddin v. Mohd. Ikhalq*", whereby the Petition filed under Section 14(1)(e) read with Section 25-B of the DRC Act by the Respondents was allowed in respect of part of **property bearing No. 4520, Ward No. VII, Lambi Gali, Ajmeri Gate, Delhi - 1100064**.

2. Learned counsel appearing on behalf of the Petitioner submits that the learned ARC has not considered the aspect that the landlord-tenant relationship as between the parties was disputed. He would submit that the Sale Deed dated 03.03.1997 itself was challenged by the Petitioners herein and that the Respondents were not the owners of the subject premises. He would further submit that the Petitioner had never attorned to the Respondents and therefore he was not a tenant.

3. The second limb of the challenge to the Impugned Order, as advanced by learned counsel for the Petitioner, is with respect to the alleged availability of

alternate suitable accommodation with the Respondents. Learned counsel would submit that the Respondents, despite claiming a *bona fide* requirement of the premises in question, are possessed of several other properties which, according to the Petitioner, could adequately cater to the requirement pleaded in the eviction petition. He would contend that the learned ARC has failed to properly appreciate the specific averments made in the leave to defend application with respect to the various properties allegedly owned, possessed or otherwise available to the Respondents.

4. He would submit that the Petitioner had specifically brought to the notice of the learned ARC the existence of, *inter alia*, properties situated at Mustafabad, Gali Sakkon Wali, Chauhan Bangar and Murari Road, Jamia Nagar, and had set out the manner in which, according to him, these properties were either in the ownership or possession of the Respondents or were otherwise capable of being utilised by them. Learned counsel would contend that the mere assertion by the Respondents that some of the aforesaid properties were either in a dilapidated condition, occupied by tenants, or standing in the names of their family members could not, without a proper examination of the factual position, be treated as sufficient to rule out their availability as alternate accommodation.

5. The challenge to the Impugned Order was limited to the aforestated two grounds at the time of oral arguments.

6. This Court has heard learned counsel appearing on behalf of the Petitioner and, with his assistance, perused the material available on record, including the Order impugned herein.

7. 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.

8. 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-UI-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.

9. The aforesaid principles have also been reiterated and relied upon by Coordinate Benches of this Court, *inter alia*, in **Pankaj Pahwa v. Prem Wati & Ors.**⁸, and **Sanjeev Hiranandani v. Sunny Grover**⁹.

10. In **Abid-UI-Islam**(supra), the Hon'ble Supreme Court, while elucidating the legislative intendment underlying Section 25B 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."

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

12. In view of the foregoing discussion, the position which emerges is that, while exercising jurisdiction under the *proviso* to Section 25B(8) of the DRC Act, this Court is neither required nor permitted to undertake a fresh appreciation of the material on record with a view to arrive at an independent conclusion on the merits of the dispute. Interference would be warranted only where the Impugned Order suffers from a jurisdictional error, manifest illegality, material irregularity or perversity, or where the conclusion arrived at by the learned ARC is wholly unreasonable or founded upon an erroneous premise of law. Equally, where a material plea has been left unconsidered, or the decision-making process otherwise discloses an error apparent on the face of the record, exercise of revisional jurisdiction may be warranted.

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

14. The aspect with respect to the ownership of the premises has been examined in detail in the following manner:

"29. Now coming back to facts of the present case, it is argued on behalf of respondent that there is no landlord tenant relationship with petitioner as there is no attornment in favor of petitioner. However, it is observed that respondent has not disputed the

ownership of erstwhile owner namely, Sh. Shamsuddin. It is well settled that on transfer of title of the property in occupation of a tenant, the transferee under the law becomes the landlord and no overt act of attornment is required. To my mind, it was not required for the petitioner to issue letter or notice of attornment.

30. It has been held in ***Nalakath Sainuddin Vs. Koorikadan Sulaiman (2002) 6 SCC 1***, ***Mahendra Raghunathdas Gupta Vs. Vishwanath Bhikaji Mogul (1997) 5 SCC 329*** and ***Mohar Singh Vs. Devi Charan (1988) 3 SCC 63*** that on transfer of tenanted premises by the landlord, the transferee automatically becomes the landlord of the tenant by operation of law and the coming into being of the relationship of landlord and tenant between the transferee and tenant is not dependent upon any overt act on the part of the tenant.

31. Respondent has admitted being inducted as tenant in respect of the tenanted premises by the Shri Shamsuddin in the year 1990, and further it is the case of respondent himself that the respondent has been paying the rent to the Shri Shamsuddin. Respondent has placed on record copy of rent receipts as well.

32. It is observed that the legal proposition is very well settled that once a tenant is always a tenant. That section 116 of Indian Evidence Act lays down as under: -

"116. Estoppel of tenant; and of licensee of person in

possession.—No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the time when such license was given."

33. Therefore, relationship of landlord and tenant between the petitioners and the respondent is not in question in any manner.

34. Thus, there is no triable issue with respect to ownership of petitioner and landlord-tenant relationship between petitioner and respondent."

15. In a similar way, the aspect relating to the alternate accommodation has also been examined by the learned ARC in the following manner:

"46. Firstly, respondent has taken objection that petitioner is the owner and in possession of a property measuring 50 sq. yds. situated at Mustafabad out of Khasra No. 52/24/12 of Chaman Park, Karawal Nagar, Delhi. It is argued on behalf of respondent that the petitioner has failed to file the photographs of the said property in support of his contention that it is now a debris and dilapidated condition. That the petitioner and his family are enjoying said property consisting of five floors having two rooms on every floor.

47. Per contra, it is submitted by petitioner that said property is in dilapidated condition. Petitioner has placed on record photographs along with reply in support.

48. Perusal of record shows that in the petition itself petitioner has clearly mentioned that said property at Mustafabad is in dilapidated condition. Further even for the sake of arguments if contentions of respondent are taken to be true, it is the case of respondent himself that the said property at Mustafabad is under various tenants and the petitioner is earning huge rent from the said building. Hence, in any case, same is not available to petitioner for intended need. The argument that in case, the petitioner has any requirement, he can fulfill the said requirement from the Mustafabad building is not tenable. Landlord cannot be expected to cause loss to his earnings and it is a settled

position of law that tenant has no say in that. The respondent cannot give direction to the petitioner/landlord as to how he has to fulfil the bonafide needs from premises which are already occupied and not vacant.

49. Another objection taken by respondent is that the petitioner is having an ancestral property i.e. bearing No. 2968. Gali Sakkon Wali, Ajmeri Gate, Delhi and it is also a well-furnished building and the petitioner is in possession of the same.

50. To which in reply to leave to defend, petitioner has submitted that property no. 2968, Gali Sakkon Wali, Ajmeri Gate, Delhi is in possession and ownership of Fehimuddin, who is brother of petitioner by way of settlement between legal heirs. That petitioner has no concern with that property.

51. In rejoinder, respondent has simply denied the same without any specific denial. Further the contentions of respondent are all vague, baseless and unsubstantiated. Further petitioner has clearly stated that he wants to live with his wife peacefully in old city area where his other family members are residing.

52. Another contention of respondent is that petitioner is in occupation of property H. No. J 182/6, Chauhan Bangar, Gali No.

8. Delhi -1 10053 measuring 44 sq. yds. which is owned by the Petitioner himself but he cleverly got the documents in the name of his sons. Moreover, on every floor two or three rooms are constructed and the entire building consisting of five floors. Only on three floors three sons of the Petitioner are residing at rest of the two floors are occupied and in possession of the Petitioner which is sufficient for the bonafide needs of the Petitioner.

53. However, it is observed that in the petition itself it is submitted on behalf of petitioner that H. No. J-182/6, Chauhan Bangar, Gali no.8, Delhi 110053 is in the ownership of his sons Mohd. Khalid, Mohd. Sadiq and Abdul Malik who are having separate power of attorney. Petitioner has placed on record copy title documents in the name of his sons. Admittedly, documents are in the name of sons of petitioner. Hence, same cannot be branded as alternate suitable property for bonafide need of petitioner.

54. It is further argued on behalf of respondent that petitioner is the owner of a property situated at Murari Road, Jamia Nagar, Okhla. Delhi measuring about 100 sq. yds and is under the occupation of his tenants. At the ground floor of this property three shops are built up and have been let out to one Server Ahmed who is running a Bakery in the said three shops and on the upper floor the labor of the said Bakery owner is residing and using the same as their residence.

55. Hence, admittedly said property at Okhla is under possession of various tenants and by any stretch of mind same cannot be termed as alternate suitable property.

57. It is trite that tenant cannot dictate the landlord as to what is adequate and landlord is the best judge of his requirements. It is a settled law that mere availability of other alternate accommodation is itself not the decisive factor for denial of eviction proceedings by the landlord, more so, since there are various factors like the size, location, access, purpose, viability, safety concerns, football, and/or like, amongst others which have/ are to be taken into consideration while dealing with the aspect of availability of alternate suitable accommodation. Reliance is placed upon case titled as ***Shiv Sarup Gupta v Dr. Mahesh Chand Gupta [(1999) 6 SCC 222]***.

59. The contention of respondent that petitioner has many other properties which he has not disclosed is vague and bald. Further, in the eviction petition, the landlord need not disclose the alternate properties available to him if he is of the view that the alternate properties are unsuitable for him. The eviction petition is not a declaration or disclosure

of all the immovable assets of the landlord and then and the exercise of sifting through the ones' which are or could be deemed to be suitable as alternate accommodation. For any property to be considered alternately available, it has first to be available, i.e. in possession of the landlord and capable of being put to immediate use; thereafter only the issue of its suitability for the bona fide need arises. The landlord's discretion and prerogative in this regard cannot be questioned, except insofar as it is not whimsical, ex facie or shockingly unreasonable. Reliance is placed upon **Babu Lal vs Atul Kumar & Anr. CRP NO. 147 of 2012** passed by the Hon'ble High Court of Delhi.

64. In view of the settled legal position, it is not for the respondent to dictate to the petitioner that it should use some other accommodation for its business, even if it is indeed available with the petitioner. The tenanted premises belong to the petitioner and it is for the petitioner to see whether it is suitable for its requirement or not. It is the right of the petitioner to choose a property which is going to be more profitable and convenient for his business. If the tenanted premises is suitable as per his needs, the petitioner has every right to possess the said premises and the respondent cannot contend that the petitioner should manage his affairs otherwise. While deciding the question of bonafide requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted. In view of the above discussion, the allegation of the respondent that the petitioner has alternative suitable accommodations does not give rise to any triable issue.

65. Accordingly, I am duly satisfied that the petitioner needs the tenanted premises in question for his bonafide need I am further satisfied that the petitioner does not have any other alternate property available with him to fulfill the said requirement.

66. After analysis of the present factual situation in backdrop of the law discussed above, this Court is of the considered opinion that respondent has failed to raise any triable issue in respect of bonafide need of petitioner and alternate accommodation available with the petitioner.

67. Thus, this court is of the considered opinion that the need set up by the landlord/petitioner is genuine and bonafide and there is no alternate suitable accommodation available to him."

(emphasis supplied)

16. Having considered the submissions advanced on behalf of the Petitioner, this Court is unable to discern any infirmity in the Impugned Order warranting interference in exercise of the limited revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act. The two grounds urged before this Court essentially seek a re-appreciation of the material which was already before the learned ARC and a different conclusion on the questions of landlord-tenant relationship and availability of alternate accommodation. Such an exercise would, however, fall outside the permissible scope of revisional scrutiny.

17. The first contention of learned counsel for the Petitioner is that there was no

relationship of landlord and tenant between the parties, principally on the ground that the Sale Deed dated 03.03.1997, pursuant to which the Respondents claim ownership, had itself been challenged by the Petitioner and that the Petitioner had never attorned in favour of the Respondents. The contention, however, does not merit acceptance.

18. The learned ARC has specifically dealt with this aspect and has noticed that the Petitioner had himself admitted his induction into the premises as a tenant by the erstwhile owner, namely, Sh. Shamsuddin, in the year 1990. It has further been noticed that the Petitioner had admittedly been paying rent to the erstwhile owner and had placed on record rent receipts evidencing the said tenancy. Thus, the foundational fact of the Petitioner's induction as a tenant by the erstwhile owner was not in dispute.

19. Once the aforesaid position is taken into account, the mere fact that the Petitioner disputes the title of the Respondents under the Sale Deed dated 03.03.1997, or asserts that he had not expressly attorned to the Respondents, cannot, by itself, constitute a triable issue in the facts of the present case. The learned ARC has rightly proceeded on the settled principle that upon transfer of the landlord's interest in the tenanted premises, the transferee steps into the shoes of the erstwhile landlord and the relationship of landlord and tenant follows by operation of law. The same does not depend upon any formal or express act of attornment by the tenant.

20. In this regard, the learned ARC has relied upon the decisions of the Hon'ble Supreme Court in **Nalakath Sainuddin v. Koorikadan Sulaiman**¹⁰, **Mahendra Raghunathdas Gupta v. Vishwanath Bhikaji Mogul**¹¹, and **Mohar Singh v. Devi Charan**¹². The principle emerging from the said decisions is that upon transfer of the landlord's interest in the tenanted premises, the transferee becomes the landlord by operation of law and the creation of the relationship of landlord and tenant is not contingent upon an overt act of attornment by the tenant.

21. The plea of the Petitioner also does not appear to appreciate the distinction between a dispute as to the title of the landlord and a dispute which genuinely puts in issue the existence of the landlord-tenant relationship. In proceedings under Section 14(1)(e) of the DRC Act, the landlord is not required to establish an absolute or indefeasible title akin to that which may be required in a title suit. It is sufficient if the relationship of landlord and tenant and the landlord's entitlement in respect of the premises are established in accordance with law. In the present case, the Petitioner's own admission regarding his induction as a tenant by the predecessor-in-interest materially supports the Respondents' case.

22. Furthermore, the principle embodied in Section 116 of the Indian Evidence Act, 1872, as it stood applicable to the proceedings, operates against a tenant disputing the title of the person through whom the tenancy was created during the subsistence of the tenancy. The Petitioner, having admittedly entered the

premises as a tenant under the erstwhile owner, cannot, merely on the basis of a subsequent challenge to the transfer in favour of the Respondents, seek to obliterate the very jural relationship under which he entered into possession.

23. More importantly, even if the Petitioner's contention is examined from the standpoint of the revisional jurisdiction of this Court, no error apparent on the face of the record is disclosed. The learned ARC has considered the objection, recorded the Petitioner's own admissions, examined the relevant documents and applied the settled legal position to the facts. The conclusion that the relationship of landlord and tenant existed between the parties is, therefore, a conclusion reached upon consideration of the material available on record. Whether another view could possibly have been taken is not the test which this Court is required to apply in proceedings under Section 25-B(8) of the DRC Act.

24. The second limb of the challenge relates to the alleged availability of alternate accommodation with the Respondents. Here again, the Impugned Order demonstrates that the learned ARC has not ignored or mechanically rejected the objections raised by the Petitioner. On the contrary, each of the properties specifically relied upon by the Petitioner has been considered and the learned ARC has recorded reasons as to why the same could not be regarded as an alternate suitable accommodation for the *bona fide* requirement pleaded by the Respondents.

25. A perusal of the Impugned Order would reveal that the learned ARC has categorically dealt with each and every alternate accommodation as sought to be raised by the Petitioner herein.

26. The concept of "alternate accommodation" under Section 14(1)(e) of the DRC Act is not to be understood in the abstract. The accommodation must not only exist but must also be reasonably suitable and available to the landlord for the purpose for which the requirement has been pleaded. The question of suitability necessarily depends upon the facts and circumstances of each case, including the nature, location, condition, availability, accessibility and the purpose for which the accommodation is required. The mere existence of another property in the name of, or associated with, the landlord does not *ipso facto* establish the availability of alternate suitable accommodation.

27. In the present case, the learned ARC has examined the properties relied upon by the Petitioner individually and has furnished reasons for holding that none of them constituted an alternate suitable accommodation capable of satisfying the *bona fide* requirement of the Respondents. The learned ARC has also correctly observed that the tenant cannot dictate to the landlord as to the manner in which the latter should arrange his affairs or from which particular premises he ought to satisfy his requirement. The landlord is ordinarily the best judge of his own requirement, subject of course to the requirement being *bona fide* and the choice not being shown to be wholly fanciful, whimsical or *mala fide*.

28. The submission of learned counsel for the Petitioner that the averments

contained in the leave to defend application were not duly considered is, therefore, not borne out from a reading of the Impugned Order. The learned ARC has considered the specific properties relied upon by the Petitioner and has returned findings thereon. Merely because the conclusions arrived at by the learned ARC do not accord with the interpretation sought to be placed by the Petitioner upon the material in the leave to defend application would not furnish a ground for interference under Section 25-B(8) of the DRC Act.

29. It is also material to note that the present proceedings cannot be converted into an appellate examination of the findings returned by the learned ARC. The Petitioner's endeavour, in substance, is to invite this Court to reassess the allegations concerning the various properties, examine their alleged availability and suitability afresh, and thereafter substitute its own assessment for that of the learned ARC. Such an exercise is impermissible within the narrow confines of the revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act.

30. The findings returned by the learned ARC are neither based on a misreading of the record nor shown to be perverse. There is no material placed before this Court which would demonstrate that the learned ARC has ignored a material document, failed to consider a material plea, or proceeded upon an erroneous proposition of law. At best, the Petitioner seeks a different appreciation of the same material. That, by itself, cannot constitute a jurisdictional error or an error apparent on the face of the record warranting interference in revision.

31. It is, therefore, apparent that both the grounds urged before this Court were matters which were specifically considered by the learned ARC. The first ground, concerning the existence of the landlord-tenant relationship, has been answered on the basis of the Petitioner's own admission regarding his induction by the erstwhile owner and the settled legal position concerning transfer of the landlord's interest. The second ground, concerning alternate accommodation, has been examined property-wise and rejected for reasons recorded in the Impugned Order. No perversity, manifest illegality, material irregularity or jurisdictional error has been demonstrated in either finding.

32. In these circumstances, this Court finds no ground to exercise its limited revisional jurisdiction under the proviso to Section 25-B(8) of the DRC Act. The Petition, accordingly, does not merit interference.

33. Accordingly, the present Petition, along with pending application(s), if any, stands dismissed and disposed of in the aforesaid terms.

FOOTNOTES

1. DRC Act
2. Impugned Judgment
3. learned ARC
4. Subject Premises
5. (1998) 8 SCC 119

6. (2014) 9 SCC 78
7. (2022) 6 SCC 30
8. 2024:DHC:9322
9. 2025:DHC:11285
10. (2002) 6 SCC 1
11. (1997) 5 SCC 329
12. (1988) 3 SCC 63