

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

*Civil Revision No. 178 of 2025 a/w Civil
Revision Nos. 192 & 194 of 2025
Date of Decision: 30th December 2025*

1. Civil Revision No.178 of 2025

Ghanshyam Sharma petitioner

Versus

Sneh Kuthiala Respondent

2. Civil Revision No.192 of 2025

Lal Chand petitioner

Versus

Sneh Kuthiala Respondent

3. Civil Revision No. 194 of 2025

Yoginder Kumar petitioner

Versus

Sneh Kuthiala Respondent

Coram:

The Hon'ble Mr. Justice BipinChanderNegi, Judge

Whether approved for reporting?¹

For the petitioner(s) : Mr. Sunil Chauhan, Advocate.

For the respondent(s) : Mr. Arun Bhoil and Mr. Ganesh Barowalia,
Advocates.

BipinChanderNegi, Judge

All these petitions have been taken up together, as a common question arises for consideration in the same. The common

question which arises for consideration is whether the personal bona fide requirement of the landlord would include accommodation for domestic help.

2. The premises in question, occupied by the petitioners/tenants, exist in the outhouse of a building owned by the landlord, known as 'Bhagwati Villa'. The landlady is a widow who lost her husband in the year 1994. She is a senior citizen aged about 84 years and has been living in Shimla in her own house known as 'Bhagwati Villa'. She resides in the said premises for about seven to eight months in a year.

3. The respondent, on account of being a widow, lives alone and requires the help and support of domestic help. She has two daughters, namely, Stuti Sood and Stuti Kuthiala, who are living in Gurgaon and Dehradun, respectively. The eviction petition has been preferred by the landlady against all the tenants residing in the said outhouse.

4. The scope of interference in a petition seeking revision of an order passed by the Rent Controller or Appellate Authority is now no longer res integra. For the purpose of convenience and ready reference sub-Section (5) of Section 24 of the Act is extracted as under :-

"Vesting of Appellate Authority on officers by the State Government.

Section 24

(5) The High Court may, at any time, on the application of the aggrieved party or on its own motion call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceeding and may pass such order in relation thereto as it may deem fit.”

[Emphasis supplied]

5. In this regard a reference to the authoritative pronouncement of a five-Judges Bench of the apex Court reported in Hindustan Petroleum Corporation Limited vs. Dilbahar Singh, (2014) 9 SCC 78 would be appropriate and relevant. The findings can be summarized as under:

(i) The term ‘propriety’ would imply something which is legal and proper.

(ii) The power of the High Court even though wider than the one provided under Section 115 of the Code of Civil Procedure is not wide enough to that of the appellate Authority.

(iii) Such power cannot be exercised as the cloak of an appeal in disguise.

(iv) Issues raised in the original proceedings cannot be permitted to be reheard as a appellate Authority.

(v) The expression “revision” is meant to convey the idea of much narrower expression than the one expressed by the expression “appeal”. The revisional power under the Rent Control Act may not be as narrow as the revisional power under Section 115 of the CPC but certainly it is not wide enough to make the High Court a second court of first appeal. While holding so the Court reiterated the view taken in Dattopant Gopalvarao Devakate vs. Vithalrao Maruthirao Janagawal, (1975) 2 SCC 246.

(vi). The meaning of the expression “legality and propriety” so explained in Ram Dass vs. Ishwar Chander, (1988) 3 SCC 131 was only to the extent that exercise of the power is not confined to jurisdictional error alone and has to be “according to law”.

(vii) Whether or not the finding of fact is according to law or not is required to be seen on the touch stone, as to whether such finding of fact is based on some legal evidence or it suffers from any illegality like misreading of the evidence; overlooking; ignoring the material evidence all together; suffers from perversity; illegality; or such finding has resulted into gross miscarriage of justice. Court clarified that the ratio of Ram Dass (supra) does not exposit that the revisional power conferred upon the High Court is as wide as an appellate power to reappraise or reassess the evidence for coming to a finding contrary to the findings returned by the authority below.

(viii) In exercise of its revisional jurisdiction High Court shall not reverse findings of fact merely because on reappraisal of the evidence it may have a different view thereupon.

(ix) The exercise of such power to examine record and facts must be understood in the context of the purpose that such findings are based on firm legal basis and not on a wrong premise of law.

(x) Pure findings of fact are not to be interfered with. Reconsideration of all questions of fact is impermissible as Court cannot function as a Court of appeal.

(xi) Even while considering the propriety and legality, high Court cannot reappraise the evidence only for the purposes of arriving at a different conclusion. Consideration of the evidence is confined only to adjudge the legality, regularity and propriety of the order.

(xii) Incorrect finding of fact must be understood in the context of such findings being perverse, based on no evidence; and misreading of evidence.

6. The landlady in the case at hand is aged about 84 years. She is the best judge of her residential requirement. She has complete freedom in the way and manner in which she chooses to live. It is entirely her own

lookout and not of the court. In this respect, it would be appropriate to refer to the judgment of the Apex Court in 1987 (2)RCR 581 (SC) titled *Pravita Devi vs. T.V. Krishnan*. The relevant paragraph whereof reads as follows:-

2. The proven facts are that the appellant who is a widow, since the demise of her husband late Shiv Nath Mukherjee, has been staying as a guest with Shri N.C Chatterjee who was a family friend of her late husband, at B-4/20, Safdarjang Enclave, New Delhi. There is nothing to show that she has any kind of right whatever to stay in the house of Shri Chatterjee. On the other hand, she is there merely by sufferance. The reason given by the High Court that the appellant is an old lady aged about 70 years and has no one to look after her and therefore she should continue to live with Shri Chatterjee, was hardly a ground sufficient for interference. The landlord is the best judge of his residential requirement. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own. The High Court is rather solicitous about the age of the appellant and thinks that because of her age she needs to be looked after. Now, that is a lookout of the appellant and not of the High Court. We fail to appreciate the High Court giving such a gratuitous advice which was uncalled for. There is no law which deprives the landlord of the beneficial enjoyment of his property. We accordingly reverse the finding reached by the High Court and restore that of the Rent Controller that the appellant had established her bona fide requirement of the demised premises for her personal use and occupation, which finding was based on a proper appreciation of the evidence in the light of the surrounding circumstances.

7. The question as to whether the domestic helps would come within the bona fide need of a landlord has been answered by the Allahabad High Court in ***Civil MWP No. 44455 of 2006 titled as Sarwat Devi and others vs. Bhagwan Singh Rajput reported as 2007 (1) RCR***

114. Relevant extract whereof reads as under:-

“39 In *Misri Lal v. Special Judge/Additional District Judge* 1988 (2) ARC 340 while interpreting the aforesaid expression "for occupation by himself or any member of his

family" occurring in Section 21(1)(a) of the Act it is held that the family of the landlord includes even the servants of the landlord who may be looking after his aged mother and taking care of her though technically they may not be a member of his family as defined in the. Thus, the need of such others whose assistance is required in the family of the landlord although they may not be technically a member of the family is liable to be. included in the need of the landlord.

40. In view of the above, it cannot be said in the instant case that merely because the daughter of the landlord is married there is no personal need of her for accommodation in the house.

41. Following the decisions rendered in the case of Smt. Rani Chaturvedi v. Sri Shiv Narain Dass : [1980 ACJ 110 \[LQ/DelHC/1979/20\]](#) and Smt. Kamla Ahuja v. Vlt Additional District Judge, Meerut : [1981 ACJ 311 \[LQ/AllHC/1980/433\]](#) : 1981 ARC 371 it has been held that "even if a person may not come within the definition of "family" under the Act but if such relative is staying with the landlord permanently the need of the landlord will be more to accommodate that person and therefore while considering the need of the landlord the need of that relation has also to be considered." Thus, the need of daughters of the deceased landlord Kishan Singh who are living permanently in his house has also to be seen. Since the tenants come within the purview of the Explanation referred to above hence his defence and countermined evidence cannot be considered.

8. Similar view has been expressed by the Hon'ble Delhi High in 1999(2) RCR 695 titled as Dr. Des Raj Bhasin (died) through LRs vs. M.G. Khanna. The relevant extract whereof reads as follow:-

3. I have given my careful consideration to the arguments advanced by learned counsel for the parties Addl. Rent Controller fell in an obvious error. In a property which is constructed in a manner where main house has additional block over garage, to hold that as the accommodation available in the main block is available in the hands of the landlord, therefore, the domestic servant, driver, cook, chowkidar and Aaya must stay in the main block is not based on cogent reasons. There is no dispute that the landlord was

a doctor, his son is also a practicing surgeon. Separate rooms are required for the widow of the deceased landlord as well as Dr. Vinay Bhasin a room is also required for the son of Dr. Vinay Bhasin who is 14 years of age and another room is required for the elder son of Dr. Vinay Bhasin who has gone for higher studies to USA. In addition to a drawing-cum-dining room, a room for clinical consultation and a room for guests and relatives are also required. In the same house the tenant cannot compel that a driver, cook, aaya, chowkidar must stay. Addl. Rent Controller while taking ground realities into consideration ought not to have kept the accommodation available in the hands of the landlord sufficient particularly in view of the fact that it was a family of doctors and as professionals they have got a distinct and different life style. It is otherwise not possible to give one or two rooms adjacent to their own room to domestic servants, cook, Aaya or driver.

9. Reliance in this respect can also be placed on another judgment of the Delhi High Court reported as **2018 (1) RCR 555 titled as *Devender Kumar Sharma and another vs. Kushal Kishore Aggarwal***.

Relevant extract whereof reads as follow:-

13. The respondent/landlord has instituted petition for eviction pleading (i) that he and his wife are 78 and 75 years of age and have kept servants for their assistance; (ii) that grandsons of the respondent/landlord reside in the premises, as part of the family of the respondent/landlord, also suffers from muscular ailment and is unable to do his daily activities without assistance and requires full-time help to reside in the house; (iii) that the respondent/landlord also keeps a full-time maid and driver who also reside in the house; and, (iv) that the one room shown in the site plan as garage/for parking, in the tenancy and occupation of the petitioners/tenants, is required by the respondent/landlord for residence of his servants and drivers for full-time help/assistance.

15. The learned Additional Rent Controller, in the impugned order, has recorded and on perusal of the site plan filed by respondent/landlord and the site plan filed by petitioners/tenants it is confirmed that the site plan filed by the respondent/landlord and by the petitioners/tenants are identical in dimensions. I have perused the two site plans.

The only difference is that while the accommodation on the terrace floor is described in the site plan filed by the respondent landlord as a store, in the site plan filed by the petitioners/ten-ants, it is described as a room. However there is no discrepancy in the dimensions of the said space in the two site plans and as per which the said size thereof, whether it be a store or a room, is less than 100 sq. ft., which is the minimum hab-itable area prescribed in the Building Bye laws applicable to Delhi. The Building Bye laws do not make any differentiation between what is habitable for the owner of the house and what is habitable for domestic help/employee. Thus the space on the terrace floor cannot be treated as habitable for the purpose for which requirement is pleaded. Reference if any required may be made to Subhash Chander Marwah v. Jagjit Singh Sood, 1988(2) R.C.R.(Rent) 244: (1988) 35 DLT 258.

18. The respondent/landlord has pleaded the need for a full-time domestic help, driver and a maid to assist the wife of the respondent/landlord and which, considering the locality and considering the financial status of the respondent/landlord which is not controverted, cannot be said to be far-fetched or whimsical.

10. Similar view has been taken by a Coordinate Bench of this Court in Civil Revision No. 127 of 2008 decided on 25th July, 2019 titled as Prabhdeep Singh vs. Kanta and others. In view of the aforesaid, the need of such others whose assistance is required by the landlady although may not be technically members of the family of the landlady are liable to be included in the need of the landlady. Besides in a property which is constructed in a manner where the main house has an additional block (outhouses), the tenant cannot compel that the domestic helps must stay in the main house. Moreover, the need for full time domestic help is required to be controverted. The need for full time domestic help in the case at hand cannot be termed to be far-fetched or whimsical.

11. The principal contention raised on behalf of the tenant is that the bona fide requirement of the landlady should be genuine honest and conceived in good faith. To support his contention he has referred to ***Himachal Pradesh High Court 2019 (2) RCR titled as Mohammad Gulzar vs. Yaseen.*** Relevant para whereof reads as under:-

“12. In Ragavendra Kumar v. Firm Prem Ma-chinery & Co., 2000(1) R.C.R.(Rent) 135: (2000) 1 SCC 679, the Hon'ble Supreme Court held that the landlord is the best judge of his requirement for his residential or business purpose and he has complete freedom in that matter. How-ever, it has still to be remembered that the bonafide need of the landlord has to be genuine, honest and conceived in good faith.

12. In this respect, it is submitted that it has come in evidence that the landlady had attempted to sell the outhouses in the case at hand. In this regard, the attention of this Court has been drawn to the relevant portion of the judgment of the learned First Appellate Court, which reads as follows:-

“She stated that she had made efforts to sell the out houses some time ago. But denied that she wants to sell the out hoses, and for this reason has filed the petition”.

13. In response thereto, learned counsel for the landlady/respondent has drawn the attention of this Court to a judgment reported in ***2015 (1) Civil Court Cases 464 (S.C) titled as Krishna Kumar Rastogi vs. Sumitra Devi.*** The relevant paragraph whereof reads as follow:-

“14. In the present case, on going through the papers on record we find that the High Court has given too much emphasis to the affidavit filed by the witness Vijay Pratap Singh that the appellant

attempted to sell disputed shop to him. It is relevant to mention here that the said fact was denied by the appellant. In our opinion, merely for the reason that some witness has stated that the landlord attempted to sell the property his statement cannot be said to be reliable, as has been believed by the High Court or the Appellate Court, unless such fact is supported with documentary proof. There appears no document on record to support the bald statement of the witness Vijay Kumar Singh to dislodge the case of bonafide requirement of the shop claimed by the appellant for his son who was unemployed’.

14. In the case at hand, both the Courts have correctly analyzed the suitability of the bona fide requirement of the landlady, keeping in view her background, age, status and style of living. The landlady is the best judge of her residential requirement and the way and manner in which she would like to live. The bona fide need of the land lady in the case at hand is genuine, honest and conceived in good faith. The impugned Judgment calls for no interference.

15. In view of the aforesaid, all three eviction petitions are dismissed being devoid of any merit, so also, the pending miscellaneous applications, if any.

30th December, 2025 (Tarun)

(Bipin Chander Negi)
Judge