

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No.9 of 2026

Reserved on: 17.07.2026

Decided on: 29.09.2026

Uploaded on: 29.09.2026

Vivek Dobhal

...Petitioner

Versus

Poonam Gupta

...Respondent

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner:

Mr. B.S. Chauhan, Senior Advocate with
Ms. Aditi Rana and Mr. Sahil Sharma,
Advocates.

For the respondent:

Mr. Neeraj Gupta, Senior Advocate with
Mr. Sandeep Mahajan and Mr. Pranjal
Munjal, Advocates.

Jiya Lal Bhardwaj, Judge

The petitioner-tenant feeling aggrieved by the judgment dated 03.01.2026, passed by the learned Appellate Authority-II, Solan, District Solan, Himachal Pradesh, whereby his Rent Appeal No. 5-S-14 of 2025, titled, ***Vivek Dobhal vs. Poonam Gupta***, has partly been allowed and the order dated 06.01.2025 passed by the learned Rent Controller-II, District Solan, Himachal Pradesh, has been modified and the eviction

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

petition preferred by the respondent-landlord has partly been allowed, thereby evicting the petitioner-tenant from the demised premises consisting of one shop measuring about 12 feet × 6 feet in the Poonam Gupta Building, opposite Old Bus Stand, The Mall, Solan, H.P., on the grounds of arrears of rent, bonafide requirement and material impairment and is dismissed on the ground of having acquired sufficient accommodation has preferred the present petition.

2. The parties in the present proceedings are referred as petitioner-tenant and respondent-landlord.

3. The respondent-landlord had filed an eviction petition under Section 14 of the Himachal Pradesh Urban Rent Control Act, 1987 (in short "the Act"), seeking eviction of the petitioner-tenant from the shop in the ground floor of Poonam Gupta Building, opposite Old Bus Stand, Ward No. 6, Solan, measuring 12 feet × 6 feet (in short, "demised premises") on the grounds i.e. (i) arrears of rent from November, 2019; (ii) tenant having carried out additions and alterations in the demised premises without the consent of

the landlord, thus having impaired the value and utility of the premises; (iii) demised premises is required by the landlord for bonafide use and occupation; (iv) the tenant having built and acquired a residence within the urban area during tenancy and (v) premises is required for bonafide need for use as an office/consulting room, as the son of the respondent-landlord, who is a Chartered Accountant, needs more space to run his office.

4. The petitioner-tenant filed reply to the eviction petition and raised preliminary objections that the petition is not maintainable in its present form and the same is liable to be dismissed. The respondent-landlord has not come to the Court with clean hands and she has concealed and suppressed the real, material and true facts from the Court. The petition is totally false, frivolous, vexatious and malafide and further, the landlord is estopped by her own act, conduct and acquiescence and by the act, conduct and acquiescence of her predecessor-in-interest, from filing the petition and as such, the same is not maintainable.

5. On merits, it was averred that the predecessor-in-interest of the petitioner-tenant, after his death, has several times offered the due arrears of rent to the respondent-landlord, but she has failed to receive the same and also failed to issue a receipt of the same. The tenants are ready to pay the due arrears of rent to the respondent-landlord even before this Court. It was specifically denied that the respondent-landlord requires the tenanted premises for her bonafide use and occupation as alleged. It was admitted that the respondent-landlord had inherited the property from her mother-in-law and her son is carrying on the profession of Chartered Accountant and Lawyer in a portion of the building. However, it was denied that the accommodation in possession of the son of the respondent-landlord is not sufficient to meet out his requirements. It was also denied that the landlord's son is facing difficulties in running his profession properly and especially in accordance with the requirements to be met on a day-to-day basis in the present circumstances. It was denied that the total space used for

office by the son of the respondent-landlord, namely Prateek Gupta, is measuring 16.8 feet × 12 feet. It was also denied that the petitioner-tenant has fixed permanent fixtures in the wall of the tenanted premises by making holes in the wall, besides fixing a fall ceiling, for which holes etc. have been made in such a manner, which has caused damage to the walls and beams of the building, due to which loss has been caused to the stability and strength of the partition wall of the office and tenanted premises, and such additions and alterations, carried out without the consent of the respondent-landlord, have impaired the value and utility of the building. The fact of the matter is that neither the value and utility of the building has been impaired nor any additions or alterations have been carried out in the tenanted premises. Rather, the fall ceiling was done in the year 1999 by the predecessor-in-interest of the petitioner-tenant with the consent of the predecessor-in-interest of the respondent-landlord, when a portion of the tenanted premises was surrendered to the predecessor-in-interest of the respondent-

landlord to beautify the tenanted shop and the same has not impaired the value and utility of the tenanted premises, nor any structural additions or alterations have been made in the tenanted premises. The minor repairs, white-washing and painting are being done from time to time and there is no crack whatsoever in the partition wall of the office and the tenanted premises. It was also denied that the petitioner-tenant has acquired sufficient accommodation in the shape of a shop situated in a three-storey building owned by him in Kasai Gali, Lower Bazar, Solan. It was also denied that the shop owned by the petitioner-tenant in Kasai Gali, Lower Bazar, Solan is having an area more than that of the tenanted premises, rather, the same is a family property of the petitioner-tenant and there are many co-owners in that building. It was denied that the shop owned by the petitioner-tenant is having an area more than that of the tenanted premises and is sufficient for meeting out requirements of the petitioner-tenant for the business, which at present is being run in the tenanted premises.

6. The respondent-landlord filed rejoinder to the reply and controverted the averments made therein.

7. The learned Rent Controller, on the basis of the pleadings, framed the issues in the eviction petition and thereafter granted opportunities to the parties to lead their evidence. After recording the evidence, the learned Rent Controller, vide order dated 06.01.2025, partly allowed the eviction petition on the grounds of arrears of rent, bonafide requirement and material impairment, and dismissed the petition on the ground of having acquired sufficient accommodation.

8. The petitioner-tenant, feeling aggrieved by the order passed by the learned Rent Controller, preferred an appeal before the learned Appellate Authority-II, Solan, District Solan, H.P. The said appeal, vide order dated 03.01.2026, was dismissed by the learned Appellate Authority.

9. The petitioner-tenant feeling aggrieved by the judgment dated 03.01.2026 passed by the learned Appellate Authority, has challenged the same *inter alia* on the grounds

that the respondent-landlord had neither pleaded nor proved the necessary ingredients required as per proviso to Section 14(3) of the Act, which provide that the landlord is not occupying another residential and non-residential building owned by him in the urban area concerned and what has been pleaded by her is that the landlord and her son, Prateek Gupta, have not vacated any such building without sufficient cause within five years of the filing of the application, whereas it ought to have been that the landlord is not occupying another residential or non-residential building owned by her in the urban area concerned. Further, the respondent-landlord has not mentioned in the petition that she is not occupying another commercial building owned by her in the urban area.

10. The respondent-landlord has also not specifically pleaded that the act committed by the petitioner-tenant is likely to impair materially the value or utility of the building or rented land, since no expert has been examined to prove the said fact. Not only this, it has not been proved that the

respondent-landlord has not vacated any other building or she does not own or occupy any other buildings and as such, the findings returned by the learned Rent Controller, which have been affirmed by the learned Appellate Authority, are perverse and as such deserve to be quashed and set aside, thereby dismissing the eviction petition.

11. On the other hand, the learned senior counsel representing the respondent-landlord has supported the order passed by the learned Rent Controller, which has been affirmed by the learned Appellate Authority. It was contended by the learned senior counsel that the findings of fact returned by the learned Rent Controller, which have been affirmed by the learned Appellate Authority, not require interference by this Court and this Court can interfere with the findings only if the same are perverse and the authorities had returned the findings which do not germane from the pleadings and record. He placed reliance upon the Constitution Bench judgment in ***Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh***, (2014) 9 SCC 78 and

as such, prayed for dismissal of the revision petition.

12. I have heard the learned senior counsel on both sides and also perused the record carefully.

13. Mr. B.S. Chauhan, learned senior counsel duly assisted by Ms. Aditi Rana and Mr. Sahil Sharma, Advocates representing the petitioner-tenant vehemently argued that since the respondent-landlord has neither pleaded nor proved the necessary ingredients of the proviso to Section 14(3) of the Act, the petition on this sole ground ought to have been dismissed.

14. As per the proviso to sub-section (3) of Section 14 of the Act, a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession in case of a residential and non-residential building, if he requires it for his own occupation, provided that he is not occupying another residential and non-residential building, owned by him, in the urban area concerned. Another proviso contained provides that he has not vacated such a building without sufficient cause within five years of the filing of the

application in the said urban area.

15. Learned counsel vehemently argued that since the respondent-landlord had not specifically pleaded that she is not occupying another residential or non-residential building owned by her in the urban area concerned, the petition filed by her ought to have been dismissed. He also argued that the respondent-landlord had only pleaded that she and her son, Prateek Gupta, have not vacated any such building without sufficient cause within five years of filing of the present petition in the urban area of Solan city and that her son does not own any building in Solan City. The said argument advanced by the learned senior counsel deserves rejection on the ground, that the petitioner-tenant while filing reply to the eviction petition has nowhere challenged the lack of pleadings by the respondent-landlord. The respondent-landlord had specifically pleaded that she and her son, Prateek Gupta, have not vacated any such building without sufficient cause within five years of filing of the present petition in the urban area of Solan city. Further, the

respondent-landlord in the evidence led by her, especially the affidavit Exhibit PW-6/A, specifically disclosed that she and her son, Prateek Gupta, have not vacated any such building without sufficient cause within five years of filing of the present petition or after the commencement of this Act in the Urban/Municipal Corporation area of Solan District. It has further been deposed that her son does not own or occupy any other building for his use as an office or consulting room in Solan Township.

16. Learned senior counsel for the petitioner-tenant also drew attention of the Court to the sale deeds of the property vide which the husband of the respondent-landlord had purchased different parts of the property, Exhibit RW-1/C, Exhibit RW-1/D, and Exhibit RW-1/E. However, these properties have no concern since all these sale deeds are prior to the premises having been let out to the petitioner-tenant, which was given on 1st April, 2000 and even otherwise, the property purchased by the husband of the respondent-landlord cannot constitute a bar for her to settle

her son. So far as the Sale Deed Exhibit RW-1/F dated 02.02.2000 is concerned, that is an incomplete residential structure purchased by the respondent-landlord, which is under dispute. The learned Rent Controller has returned the positive findings that the respondent-landlord requires the demised premises for expanding the reception-cum-waiting area of the office of her son, which comes within the category of bonafide requirement and as such, the said finding returned by the learned Rent Controller, which has been affirmed by the Appellate Authority, does not require any interference while exercising the revisional jurisdiction.

17. Learned senior counsel representing the petitioner-tenant had placed reliance upon the judgment passed in **Suresh Sharma vs. Veera Bali**, 2002 (2) RCR 343, to contend that since the respondent-landlord had not specifically pleaded that the alternative accommodation is not available with her, the order passed by the Rent Controller deserves to be quashed and set aside. However, it is relevant to mention that as per the judgment passed by the Hon'ble

Apex Court in ***Ram Narain Arora vs. Asha Rani and others***, AIR 1998 SC 3012, it has been held that there cannot be a pedantic or dogmatic approach in the matter of analyzation of pleadings or of the evidence adduced thereto. No doubt, if the pleadings are clearly set out, it would be easy for the Court to decide the matter. However, if the pleadings are lacking or vague and if both parties have understood what was the case pleaded and put forth with reference to requirement of law and placed such material before the Court, neither party is prejudiced. The relevant para of the judgment reads as under:

"11. There cannot be a pedantic or a dogmatic approach in the matter of analysis of pleadings or of the evidence adduced thereto. It is no doubt true that if the pleadings are clearly set out, it would be easy for the Court to decide the matters. But if the pleadings are lacking or vague and if both parties have understood what was the case pleaded and put forth with reference to requirement of law and placed such material before the Court, neither party is prejudiced. If we analyse from this angle, we do not think that the High Court was not justified in interfering with the order made by the Rent Controller."

18. Learned senior counsel representing the petitioner-tenant has vehemently argued that since the respondent-landlord has not proved that she is not having any shop within the urban area, she is not entitled to evict the petitioner-tenant. However, the said submission deserves rejection in view of the fact that availability of another residential building in the same urban area would not disentitle the respondent-landlord from seeking eviction of the tenant on the ground of her requirement for her own occupation, if she is not in occupation of such another building or has not vacated such another building within five years. A reference in this regard is made to the judgment in ***Kailash Chand and another vs. Dharam Das***, 2006 (1) Shim. LC 86 and thus, the plea raised by the tenant deserves rejection.

19. Learned senior counsel representing the petitioner-tenant had vehemently argued that since the respondent-landlord had neither pleaded nor proved the date, on which additions and alterations were done, the petition on this sole ground ought to have been dismissed.

However, if the pleadings of the respondent-landlord are perused, it was specifically averred that the eviction is sought on the grounds of arrears of rent, bonafide requirement and that the petitioner-tenant has affixed permanent fixtures on the walls of the tenanted premises by making holes in the wall, besides fixing fall ceiling for which holes etc. have been made in such a manner which has caused damage to the walls and beams of the building, due to which loss has been caused to the stability and strength of the building, cracks have appeared in the partition wall of the office and demised premises, and such additions and alterations which have been carried out without the consent of the respondent-landlord have impaired the value and utility of the building.

20. While filing reply to the said para of the petition, it had been denied that the petitioner-tenant had fixed permanent fixtures in the walls of the tenanted premises by making holes in the wall besides fixing fall ceiling for which holes etc. had been made. The respondent-landlord had led the evidence by way of an affidavit Exhibit PW-6/A, a

complaint made to the Incharge, Police Station, Solan, vide Exhibit PW-6/B and the photographs along with copy of newspaper cutting dated 03.12.2019, Exhibits PW-6/C-4 to 6 were proved, which shows that the petitioner-tenant had done material alteration in the building, which has materially diminished the value and utility of the building. Such findings of fact as affirmed by the learned Appellate Authority cannot be reversed in present petition.

21. Learned senior counsel for the petitioner-tenant had vehemently argued that since it has not been specifically pleaded that the petitioner-tenant has committed such acts as are likely to impair materially the value and utility of the building, the findings recorded by the learned Rent Controller are without any evidence. He further argued that the respondent-landlord has not examined any expert to prove the said fact. However, a perusal of affidavit Exhibit PW-6/A coupled with the complaints made to the police as well as photographs having been proved on record, clearly reveals that the act of the petitioner-tenant has materially diminished

the value of the building and thus, the findings returned by the learned Rent Controller, which have been affirmed in appeal, do not require any interference. Not only this, the defense raised by the petitioner-tenant was shattered when he admitted in cross-examination that in the year 2019, he had affixed PVC fittings and while doing so, he had used drill machine. He had admitted in cross-examination that in Exhibit PW-6/C-3, which is the area of reception, the cracks may have occurred due to drilling and thus, it is clear that the petitioner-tenant has materially impaired the value and utility of the building and no other evidence was required to be produced by the respondent-landlord.

22. The Hon'ble Supreme Court in ***Gurbachan Singh and another vs. Shivalak Rubber Industries and others***, (1996) 2 SCC 626, has held that once the landlord has taken a ground and pleaded that the tenant has done addition and alteration, then the Court is to find out whether the value or utility has been materially impaired from the point of view of the landlord. A similar view has been taken by the Hon'ble

Supreme Court in ***Vipin Kumar vs. Roshan Lal Anand and others***, (1993) 2 SCC 614, and the findings recorded on such issue by the Rent Controller, have been affirmed by the learned Appellate Authority, do not require any interference.

23. Learned senior counsel for the petitioner-tenant had argued that since the findings returned by the Rent Controller are perverse, this Court can interfere with such findings and he placed reliance upon the judgment of the Hon'ble Apex Court in ***Hindustan Petroleum Corporation Limited's*** case (supra). However, if the judgment referred to above is perused in its entirety, it only says that the Court can interfere with findings only in case such findings are perverse and do not germane from the record. Perversity is only when something not pleaded, but has been taken into account, has been considered. In the present case, neither the Rent Controller nor the Appellate Authority has taken into account any material, which does not germane from the record. The plea taken by the learned senior counsel for the petitioner-tenant that the pleadings are not to the effect that the

respondent-landlord had not been occupying another building owned by her in the urban area concerned, do not say that the respondent-landlord had not pleaded as such in the petition. Once the parties were aware about what was the case to be met by them and neither party was taken by surprise, no illegality can be said to the findings recorded by the Court. If the parties wanted to take stand that there was no pleading and no evidence could have been adduced, he ought to have raised an objection before the Rent Controller. However, in the present case, it was not done and thus the findings recorded by the Rent Controller and affirmed by the Appellate Authority do not require any interference, and this Court cannot reverse findings of facts, especially when there is neither any perversity nor error of law.

24. Learned senior counsel representing the petitioner-tenant referred to the judgments in ***Shivaji Balaram Haibatti vs. Avinash Maruthi Pawar***, (2018) 11 SCC 652 and ***Banke Ram vs. Sarasti Devi***, AIR 1977 P&H 158 to contend that parties cannot travel beyond the pleadings and

the Court cannot record any finding on the issues, which are not part of the pleadings and also no evidence can be looked into without pleading. It is true that no evidence cannot be looked into without pleadings, but in the present case, the respondent-landlord had pleaded the facts, which have been proved and once both the authorities below have returned the findings of fact, this Court cannot reappreciate the evidence to arrive at a different conclusion.

25. Learned senior counsel representing the petitioner-tenant had also placed reliance on the judgment of Supreme Court in ***Sayed Muhammed Mashur Kunhi Koya Thangal vs. Badagara Jumayath Palli Dharas Committee and others***, (2004) 7 SCC 708, to contend that the plaintiff has to succeed on the strength of his case and not on the weakness found in the case of the defendant. It is true that the plaintiff had to succeed on the strength of his case. However, in the present case, the eviction petition instituted by the respondent-landlord has been allowed on the basis of the pleadings, as discussed above, and both the authorities below

have returned the findings of fact, thus this Court cannot reappreciate the evidence to arrive at different conclusion.

26. Consequently, I do not find any merit in the present revision petition and the same is dismissed. No order as to costs. Pending applications, if any also stand disposed of.

29th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**