

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No.208 of 2018

a/w Civil Revision No.195 of 2018

Reserved on: 19.08.2026

Decided on: 29.09.2026

Uploaded on: 29.09.2026

1. Civil Revision No.208 of 2018

Prem Chand and others

...Petitioners

Versus

Salig Ram Sharma (deceased) through LRs and others

...Respondents

2. Civil Revision No.195 of 2018

Salig Ram Sharma (deceased)
through LRs and others

...Petitioners

Versus

Prem Chand and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?¹

For the petitioners:

Mr. Neeraj Gupta, Senior Advocate with
Mr. Ajeet Jaswal, Advocate in C.R. No.208
of 2018 and Ms. Seema K. Guleria,
Advocate, in C.R. No.195 of 2018.

For the respondents:

Mr. Neeraj Gupta, Senior Advocate with
Mr. Ajeet Jaswal, Advocate in C.R.
No.195 of 2018 and Ms. Seema K.
Guleria, Advocate in C.R. No.208 of
2018.

Jiya Lal Bhardwaj, Judge

This order shall dispose of both revision petitions,

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

one filed by the tenants and other by the landlord as both the petitions arise out of a judgment passed by the learned Appellate Authority.

2. For the sake of convenience, the parties to the lis hereinafter referred to as 'landlord' and 'respondents-tenants'.

3. The petitioner-landlord namely Salig Ram in Civil Revision No.195 of 2018, had preferred an eviction petition under Section 14(2)(i), (ii) and 3(a) of the Himachal Pradesh Urban Rent Control Act, 1987 (in short the "Act") before the learned Rent Controller, Court No.5, Shimla against the respondents-tenants on the grounds, i.e., (i) that respondent No.1-tenant is in arrears of rent, since January, 2008 @Rs.1000/- per month; (ii) that respondent No.1-tenant had sublet the premises in favour of respondent No.2 from January, 2008, without his written permission; and (iii) that respondent No.1-tenant has purchased a flat from Mrs. Seema, D/o Sh. Sher Singh, at Kuber Building near Children Park, Sanjauli, Shimla and without any reasonable cause had not vacated the said premises despite having alternative accommodation.

4. The petition preferred by the landlord was dismissed by the learned Rent Controller, while holding that the landlord has failed to prove that respondent No.1-tenant is in arrears of rent, since he has not led any evidence to prove the said fact. So far as the issue with respect to subletting was concerned, it was held that the landlord has failed to establish that respondent No.1-tenant has sublet the premises as there was no specific proof of parting of the possession by respondent No.1-tenant to respondent No.2, and further the landlord has also failed to prove that the respondents-tenants are not the legal representatives of deceased Mata Fer. As far as the third plea taken by the landlord regarding the acquisition of alternative accommodation by respondent No.1-tenant was concerned, it was held that the landlord has neither pleaded that the accommodation acquired by the respondent-tenant is reasonably sufficient for his requirement nor he has proved the same on record and hence the important factor, which was required to be established under Section 14(3)(a)(iv) of the Act had not been established on record and as such, on all three

counts, the petition preferred by the landlord was dismissed.

5. The landlord feeling aggrieved by the order dated 25.08.2015, passed by the learned Rent Controller had preferred an appeal under Section 24(1)(b) of the Act before the learned Appellate Authority-IV, Shimla, H.P. The learned Appellate Authority vide judgment dated 29.06.2018, partly allowed the appeal and the order passed by the learned Rent Controller was modified to the extent that the respondents-tenants are ordered to be evicted from the demised premises on the ground of subletting the same by respondent No.1-tenant in favour of respondent No.2-tenant in January, 2008 (now deceased) without the consent of the landlord and also that respondent No.1-tenant has obtained alternative accommodation in the urban area i.e. Kuber Building near Children Park, Sanjauli, Shimla and the respondents-tenants were directed to hand over the vacant possession of the demised premises to the landlord within a period of three months.

6. The landlord feeling aggrieved by the order, whereby the claim preferred by him with respect to arrears of

rent, having been declined, has preferred the revision petition No.195 of 2018 and the respondents-tenants feeling aggrieved by the order, whereby the appeal preferred by the landlord has been partly allowed on the grounds that the demised premises had been sublet by respondent No.1-tenant in favour of respondent No.2-tenant, without the consent of the landlord and further respondent No.1-tenant has obtained alternative accommodation in the urban area, have preferred the revision petition No.208 of 2018.

7. The landlord has laid challenge to the order, whereby the relief claimed by him on account of arrears of rent since January, 2008 till date @Rs.1000/- per month, has been declined. It has been averred that the learned Courts below have erred while misconstruing the facts and evidence available on record with respect to the onus to prove that the rent had not been paid to the landlord, giving a finding that since no receipts were being issued, the onus to prove the said issue shifted to the landlord. Since respondent No.1-tenant had failed to demand a receipt from the landlord and had a remedy

available with him under Section 21 of the Act, it was incumbent upon the tenants to prove the fact as to how the rent had been paid. The learned authorities below have brushed aside the material evidence led by the landlord, which has caused prejudice to the landlord. Further, respondent No.1-tenant is enjoying the demised premises despite having acquired an alternative accommodation and not paying the rent of the demised premises to him. Not only this, both the authorities below have brushed aside the admission made by respondent No.1-tenant that the tenants had not paid the rent since 2012. Despite the said admission on the part of respondent No.1-tenant that he had not paid the rent, the findings returned by the learned authorities below are wrong, illegal and liable to be set aside.

8. The respondents-tenants have assailed the order passed by the Appellate Authority to the extent of returning the findings that respondent No.1-tenant had sublet the premises to respondent No.2-tenant without the consent of the landlord and also the finding that respondent No.1-tenant has acquired

an alternative accommodation which is sufficient for his requirement. It has been averred that no reasonings have been assigned by the Appellate Authority to hold that respondent No.1-tenant has sub-let the demised premises to respondent No.2-tenant. The findings are contrary to the pleading and evidence. It has not even been disclosed by the landlord that Mata Fer, father of respondent No.1-tenant and predecessor-in-interest of respondent No.2-tenant and the proforma respondents was ever inducted as a tenant. Not only this, the Appellate Authority has committed grave irregularity and illegality by reversing the findings of the learned Rent Controller and holding that after the death of Mata Fer, the tenancy was not inherited by the respondents-tenants. It has further been averred that in the grounds of eviction petition in para 9 of the petition, preferred by the landlord, it was averred that it was respondent No.1-tenant, who was inducted as tenant in the year 1990, whereas in para 14, it was averred that the premises was rented to respondent No.1-tenant for the last 18 years. From this, the only inference that could be drawn is that the landlord

had concealed material facts from the Court.

9. It has also been averred that the Appellate Authority has also erred in returning the finding of subletting, especially, when there is no pleading or even any rent agreement to suggest even remotely that respondent No.1-tenant was inducted as a tenant by the landlord. Even otherwise the said plea is contrary to the pleading of the landlord. Furthermore, as per Exhibit RW-1/A, which is the voter list for the year 1988 relating to the demise premises in question, wherein respondent No.1-tenant and predecessor-in-interest of respondent No.2-tenant and proforma respondents, namely Sh. Gopi Chand and Smt. Raskali, were shown as voters in the premises in question. This document, which is prepared by the government official while discharging official duties, is a public document and the Appellate Authority has not assigned any reason to discard the public document (Exhibit RW-1/A), which has resulted in passing the impugned order. The impugned order also suffers from material irregularities and illegalities and the Appellate Authority has thus returned the findings on

the basis of its assumption and presumption.

10. It has further been averred that the Appellate Authority had also returned the finding that respondent No.1-tenant has acquired alternative accommodation, which is sufficient for his requirement, which also suffers from irregularities and illegalities. The finding returned by the learned Appellate Authority that respondent No.1-tenant had self-stated that now the flat has been completely furnished is not supported by any evidence and on the other hand, it is contrary to the oral as well as documentary evidence available on record and thus prayed for allowing the revision petition.

11. I have heard the learned counsel for the parties and also perused the record carefully.

12. As already observed above, the landlord had filed the eviction petition against the tenants on three grounds. The respondents-tenants had filed reply to the petition and had taken preliminary objections regarding maintainability, non-joinder, estoppel, no cause of action and that the owner was guilty of suppressing material facts. On merits, it was stated

that the landlord has concealed from the Court that Sh. Mata Fer was inducted as tenant and after his death, both the respondents-tenants as well as his other son, namely Satish, became tenants of the premises in question. The non-payment of rent @Rs.1000/- per month was denied by the tenants, however, it was stated that the rent of the premises was Rs.550/- per month, including the M.C. taxes. It was also denied that the tenants were in arrears of rent since January, 2008 @Rs.1000/- per month and that they are liable to pay interest @12% per annum. It was further denied that respondent No.1-tenant has purchased a flat from Mrs. Seema Devi, D/o Sh. Sher Singh at Kuber Building, near Children Park, Sanjauli, Shimla.

13. The landlord had filed rejoinder to the reply and had controverted the averments made in the reply.

14. The Rent Controller, on the basis of the pleadings had framed the following issues:

"1. Whether the respondent No.1 is liable to be evicted from the demised premises which is Kamal Niwas, Sanjauli Bazar, Sanjauli Shimla-6 on the ground that he is in arrears of rent since January, 2008 at the rate of Rs.1000/- per month? ...OPA.

2. Whether the respondents are liable to be evicted

from the demised premises on the ground that respondent No.1 has sublet the premises in favour of respondent No.2 in January, 2008 without any express written permission or consent of the applicant? ...OPA.

3. Whether the respondent No.1 is liable to be evicted from the demised premises on the ground that he has obtained an alternative accommodation in the very urban area which is sufficient for serving his requirement? ...OPA.

4. Whether the present petition is neither competent nor maintainable? ...OPR.

5. Whether the petition in hand is bad for non-joinder of necessary parties? ...OPR.

6. Whether the applicant is stopped from filing the present petition on account of his own acts, conduct and deeds etc? ...OPR.

7. Whether the applicant has no cause of action to maintain the present application? ...OPR.

8. Whether the applicant is guilty of suppressing material facts and not approached this Court with clean hands, if so, its consequence? ...OPR.

9. Relief."

15. After recording the evidence led by the parties, the Rent Controller had dismissed the eviction petition, vide order dated 25.08.2015.

16. The landlord feeling aggrieved by the order passed by the Rent Controller had preferred the appeal, which came to be partly allowed and the order passed by the Rent Controller was modified to the extent that the tenants are also liable to be evicted from the demised premises on the ground of subletting of the same by respondent No.1-tenant in favour of respondent

No.2 (now deceased) in January, 2008, without the consent of the landlord and further on the ground that respondent No.1-tenant has obtained alternative accommodation in the very same urban area, i.e. Kuber Building near Children Park, Sanjauli, Shimla.

17. Mr. Neeraj Gupta, learned senior counsel, duly assisted by Mr. Ajeet Jaswal, Advocate, appearing for the respondents-tenants had vehemently argued that there are no findings with respect to the demised premises having been sublet by respondent No.1-tenant in favour of respondent No.2-tenant and also with respect to the finding that the alternative accommodation acquired by respondent No.1-tenant is sufficient to meet his requirement. So far as the first plea taken by the learned senior counsel that the demised premises was sublet by respondent No.1-tenant in favour of respondent No.2-tenant in January, 2008, is concerned, the said submission required to be accepted.

18. However, before advertng to the submissions made by learned senior counsel for the respondents-tenants, it is

relevant to refer to the pleadings. As per the eviction petition preferred by the landlord, it has been mentioned in column No.3(b) that the name and address of the tenant is the same as mentioned in the memo of parties. Further, in column No.9, it has been stated that the premises had been occupied by respondent No.1-tenant since 1990 and the petition was instituted in the year 2012. In column No.14, it has been stated that the respondent was inducted as a tenant in the said premises for the last 18 years. Once the petitioner himself had mentioned in column No.3 that the name and address of the tenant is the same as mentioned in the memo of parties, it cannot be said that respondent No.1-tenant had sublet the premises to respondent No.2-tenant, especially when respondent No.2-tenant is none other than the real brother of respondent No.1-tenant. After the demise of respondent No.2-tenant, now his legal heirs have been brought on record.

19. The plea raised by the respondents-tenants in the reply was that the demised premises was let out to late Sh. Mata Fer, who was father of the respondents-tenants in the year 1984

and after his death in the year 1992, the respondents-tenants as well as Sh. Satish, who was one of the sons of late Sh. Mata Fer had occupied the premises in question. It was admitted by the respondents-tenants in the reply that the demised premises was let out at the rate of Rs.550/- per month, inclusive of the M.C. taxes.

20. The Rent Controller after considering the evidence brought on record, had given specific findings with respect to the issue that the premises was not sublet by respondent No.1-tenant in favour of respondent No.2-tenant, rather it was held that the respondents are the legal representatives of deceased Mata Fer and further to prove the subletting, specific proof of parting of the possession by respondent No.1-tenant in favour of respondent No.2-tenant was required to be brought on record and since the same had not been proved by the landlord, the petition was dismissed. The learned Rent Controller had placed reliance on the judgment passed in ***M/s Shalimar Tar Products Ltd. vs. H.C. Sharma***, 1987 (2) RCR 671 SC. However, while discarding the said findings, the learned Appellate

Authority had not returned any specific finding or given any cogent reasoning except taking note of the pleadings and the evidence led by the parties and thus, the findings returned by the learned Appellate Authority to that effect are unsustainable in law and the same are quashed and set aside.

21. So far as the second plea raised by the learned senior counsel representing the tenants that the Appellate Authority has returned erroneous finding qua respondent No.1-tenant having obtained sufficient alternative accommodation is concerned, the same does not require any interference. Learned senior counsel representing the tenants has vehemently argued that as per the provisions of Section 14(3)(a)(iv) of the Act, it was incumbent upon the landlord to prove that the premises acquired by the tenant was sufficient for his requirement. Before advertng to the said submission made by the learned senior counsel representing the respondents-tenants, it would be relevant to refer to the pleadings by the landlord and the reply thereto filed by the respondents-tenants. In ground 18(a) (iii), it was specifically mentioned by the landlord that

respondent No.1-tenant has purchased/owned the flat from Mrs. Seema, D/o Sh. Sher Singh at Kuber Building near Children Park, Sanjauli, Shimla-6, H.P. and without any reasonable cause, respondent No.1-tenant has not vacated the rented premises, despite having alternative accommodation and had sublet the said premises to respondent No.2-tenant. The respondents-tenants while filing reply to para 18(a)(iii) had averred that the contents of para 18(a)(iii) of the petition are wrong and specifically denied. It was averred that it is wrong and specifically denied that respondent No.1-tenant has purchased/owned the flat from Mrs. Seema, D/o Sh. Sher Singh at Kuber Building near Children Park, Sanjauli and without any reasonable cause respondent No.1-tenant has not vacated the said premises. The landlord has proved the sale deed Exhibit AW-1/A, a perusal of which, clearly reveals that respondent No.1-tenant had purchased the flat consisting of two rooms, one toilet, one kitchen & one balcony having its total covered area of 42-50 sq. mtrs. on ground floor on the land situated at Up-Mohal Sanjauli Bazar, Tehsil Shimla (U), District Shimla,

Himachal Pradesh. Once respondent No.1-tenant had purchased the flat, as mentioned above, which was admittedly before filing of the reply to the petition, it was incumbent upon him to state specifically in the reply that the accommodation acquired by him is not sufficient to meet his requirement or the same is incomplete. Since respondent No.1-tenant had flatly denied acquiring any accommodation in his reply/written statement to the petition, and the landlord has proved that he acquired the accommodation, the Court will presume that the alternative accommodation is sufficient unless the tenant brings forth strong, cogent and bonafide evidence showing why it cannot accommodate his needs. In the present case, the demised premises was of two rooms with bathroom and toilet and the accommodation acquired by respondent No.1-tenant was consisting of two rooms, one toilet, one kitchen & one balcony having its total covered area of 42-50 sq. mtrs., which admittedly having more area than the demised premises.

22. It is settled law that a person, who comes to the Court, must approach the Court with clean hands. However, in

the present case, despite purchasing the flat by respondent No.1-tenant, he did not disclose the said fact in the reply and thus, the plea taken by the learned senior counsel representing the respondents-tenants that the landlord has not pleaded that the accommodation is reasonably sufficient for his requirement and not proved that the accommodation was sufficient, cannot be accepted.

23. Learned counsel for the respondents-tenants had placed reliance upon the judgments of this Court in ***Bhagat Ram Thakur vs. Smt. Enakshi Mahajan***, 1988 (2) Sim. L.C. 137 and ***Susheela Verma and others vs. Sh. Gopal Mandi Sabha***, Latest HLJ 2006 (HP) 1165. No doubt, in the aforesaid judgments, it has been held that the landlord has to prove that the accommodation acquired by the tenant is sufficient for his requirement, only then, the eviction order can be passed. However, as stated above, once the respondents-tenants had not approached the Court with clean hands and had suppressed the material fact that respondent No.1-tenant had purchased the flat, which was more than the accommodation, which has

been let out to them or their father by the landlord, the respondents-tenants are not entitled to any protection and thus, the finding returned by the Appellate Authority to the effect that the accommodation has been purchased by respondent No.1-tenant in the urban area and he is residing there, does not call for any interference and the respondents-tenants have rightly been ordered to be evicted from the demised premises.

24. The landlord has preferred the revision petition only on the finding whereby the eviction petition preferred by him for arrears of rent was dismissed by the Rent Controller, which finding had been affirmed by the Appellate Authority. This Court while considering the plea raised by the parties in the revision petition cannot re-appreciate the evidence and it can interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non-consideration of the material evidence on record. It has been held by the Constitution Bench of the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***, (2014) 9 SCC 78, that the

revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a Court of first appeal.

25. In the present case, the Rent Controller had returned the findings that once the landlord had deposed that he does not issue any receipt to any of the tenant and there is no agreement on record between the parties with respect to the payment of the rent or assessment of the rent of the demised premises, he cannot wriggle out of the admission made by him. Further, he did not lead any evidence in order to show that respondents-tenants are in arrears of rent of the demised premises and respondent No.1-tenant had stated that he had paid the rent of the premises till 2012 and thus, the issue regarding arrears of rent was decided against him. The finding on issue of arrears of rent has been affirmed by the Appellate Authority and this Court while exercising the revisional jurisdiction cannot interfere with such finding of fact.

26. The plea taken by the learned counsel for the landlord that the tenant had the remedy under Section 21 of the

Act in case the landlord was not issuing the receipt cannot be accepted for the reason that once there was no agreement on the record between the parties with respect to the payment of the rent and the landlord had admitted that he does not issue any receipt, this Court cannot re-appreciate the evidence to return findings that the respondents-tenants are in arrears of rent. In the revision petition filed by the landlord, it has been pleaded that the learned Courts below have brushed aside the admission made by respondent No.2-tenant that he has not paid the rent since 2012. Once this plea has been taken by the landlord in the revision petition, it is admitted that the rent was paid by the respondents-tenants to him till 2012 and thus, there is no illegality committed by the authorities below when the petition filed by the landlord has been dismissed on account of arrears of rent.

27. Consequently, Civil Revision No.195 of 2018 preferred by the landlord is dismissed and the revision petition bearing Civil Revision No.208 of 2018 preferred by the tenants is partly allowed and the order passed by the learned Appellate

Authority is modified and the respondents-tenants are ordered to be evicted from the demised premises only on the ground of their having acquired alternative accommodation in the urban area i.e. at Kuber Building near Children Park, Sanjauli, Shimla. No order as to costs and pending applications, if any also stand disposed of.

29th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**