

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No.46 of 2025
Decided on: 10.08.2026

Sunil and another

...Petitioners

Versus

Surinder Kumar Sood

...Respondent

*Coram***Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge***Whether approved for reporting?*¹

For the petitioners: Mr. Narender Singh Thakur,
Advocate.

For the respondent: Mr. Manohar Lal Sharma,
Advocate.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioners by way of present petition have challenged the order dated 28.04.2025 passed by the learned Appellate Authority, Palampur, District Kangra, H.P., whereby the use and occupation charges at the rate of Rs.6500/- of the demised premises have been ordered to be paid by the petitioners-tenants to the respondent-landlord, from the date of passing of the order by the learned Rent Controller till getting possession of the premises in reference.

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

2. The facts as emerge from the pleadings are that the respondent-landlord had filed eviction petition under Section 14 of the Himachal Pradesh Urban Rent Control Act, 1987 (in short 'the Act') against the petitioners-tenants with regard to the premises situated in M-202 (old) and M-539 (new), Ward No.5, Palampur, consisting two rooms along with electricity and water fittings and its gallery, kitchen, toilet and veranda (in short 'demised premises'). The rent of the demised premises was fixed @ Rs.440/- per month and electricity and water charges were to be paid by the petitioners-tenants. The demised premises was let out in the year 1973. It was averred that the demised premises was required by the respondent-landlord for settling his son namely Gopal Sood, who is having four family members. The said eviction petition was allowed vide order dated 28.03.2024, passed by the learned Rent Controller(I), Palampur, Distt. Kangra, H.P. and the petitioners-tenants were directed to handover the vacant possession of the demised premises to the respondent-landlord within one month from the date of the order.

3. The petitioners-tenants feeling aggrieved by the order of eviction passed by the learned Rent Controller

against them have preferred an appeal, which is pending adjudication before the learned Appellate Authority (Additional District Judge, Palampur). Along with the appeal, the petitioners-tenants had also preferred an application for stay of the execution of the order of eviction passed against them and the learned Appellate Authority, vide order dated 28.04.2025 had stayed the execution of the order subject to payment of Rs.6500/- per month, as use and occupation charges of the demised premises to the respondent-landlord from the date of passing of the order of eviction till getting possession of the demised premises is given to the respondent-landlord.

4. The petitioners-tenants being aggrieved by the order dated 28.04.2025 passed by the learned Appellate Authority has approached this Court by way of present petition *inter alia* on the grounds that the fixing of the amount of use and occupation charges per month is highly illegal, wrong, unjust and contrary to the true pleadings. The learned Appellate Authority has failed to exercise the jurisdiction vested in it and has committed material irregularities and illegality by arbitrarily fixing the amount of use and occupation charges without there being any legal

material/evidence on record. Further the learned Appellate Authority has wrongly ordered to pay the amount to the respondent-landlord, whereas the amount ought to have been ordered to be deposited in the Court and thus, prayed for setting aside the order passed by the learned Appellate Authority.

5. On the other hand, the learned counsel representing the respondent-landlord has supported the order under challenge and further argued that since the learned Appellate Authority has passed a well-reasoned order, no interference is called for by this Court, while exercising the revisional jurisdiction.

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

7. It is not in dispute that the petitioners-tenants have been ordered to be evicted as per the order dated 28.03.2024, passed by the learned Rent Controller and were asked to handover the possession of the demised premises to the respondent-landlord within one month from the date of order. After passing the order of eviction, the petitioners-tenants are in unauthorized possession of the premises and they have to pay use and occupation charges till the

possession is delivered to the respondent-landlord.

8. It has been held by the Hon'ble Supreme Court in ***Marshall Sons & Co.(I) Ltd. versus Sahi Oretrans (P) Ltd.***, (1999) 2 SCC 325 that once a decree for possession is passed and execution is delayed depriving the judgment-creditors, it is necessary to pass appropriate orders so that reasonable mesne profits which may be equivalent to market rent is paid by the persons who hold the property.

9. The aforementioned view was again followed in ***Atma Ram Properties (P) Ltd. versus Federal Motors(P) Ltd.***, (2005) 1 SCC 705, wherein it was held that the tenant after having suffered an order of eviction, is in unauthorized possession and the Appellate Court while staying the order of eviction can put such tenant on terms and direct the tenant to compensate the landlord on reasonable amount. This view was further followed by the Hon'ble Supreme Court in ***Anderson Wright and Co. versus Amar Nath Roy and others***, (2005) 6 SCC 495, wherein it was held that the tenant from the date of passing the decree of eviction, is liable to pay mesne profits or compensation for use and occupation of the premises at the same rate at which the landlord would have been able to let

out the premises on being vacated by the tenant.

10. The respondent-landlord had placed on record, the copy of order dated 17.05.2024 passed by the learned Rent Controller-1, Palampur, in Rent Case No.2/2024, titled, ***Rajesh Kumar vs. Akash Kumar***, in which rent at the rate of Rs.12,000/- per month was fixed. On the other hand, the petitioners-tenants had placed on record copy of one rent deed pertaining to the year 2014, of Rs.2,000/-, which was of one room. The learned Appellate Authority while fixing the rent at the rate of Rs.6500/- has taken note of the fact that the premises is a residential one, whereas, rent deed relied upon by the tenant is of one which is of commercial shop, that too, only of one room, whereas, the order relied upon by the respondent-landlord is of residential building comprising of two rooms and one drawing room similar to the demised premises and as such fixed the use and occupation charges @ Rs.6500/- per month from the date of passing the order of eviction by the learned Rent Controller.

11. The learned Appellate Authority has considered the order passed by the learned Rent Controller of the adjoining building where the rent of Rs.12,000/- per month has been fixed inasmuch as the fact that the petitioners-

tenants had relied upon the rent deed pertaining to the year 2014, where the rent of Rs.2000/- per month was fixed for one room and thus, it cannot be said that the order passed by the learned Appellate Authority fixing the use and occupation charges of the demised premises at the rate of Rs.6,500/- per month is either exorbitant or unreasonable.

12. Learned counsel for the petitioners-tenants has vehemently argued that the learned Appellate Authority has wrongly ordered to pay the amount to the respondent-landlord from the date of passing of the order by the learned Rent Controller till getting possession of the premises, whereas the same ought to have been ordered to be deposited in the Court. Once the petitioners-tenants do not dispute that the respondent is the landlord of the premises, the order passed by the learned Appellate Authority directed the petitioners to pay the amount to the respondent-landlord instead of ordering to deposit the amount in the Court, cannot term the order to be illegal.

13. Learned counsel for the petitioners-tenants has apprised the Court that the use and occupation charges are being paid by the petitioners-tenants directly to the respondent-landlord after passing the order.

14. Keeping in view the above facts, the learned Appellate Authority has not committed any illegality while fixing the use and occupation charges at the rate of Rs.6500/- per month and this Court while exercising the revisional jurisdiction cannot substitute the view taken by the learned Appellate Authority especially when it has considered the facts meticulously as mentioned above.

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

10th August, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**