

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Civil Revision No.7 of 2024

Decided on: 24th September, 2026

M/s Som Nath Swaran Lal (through its partners)

...Petitioner

versus

Dr. Shashi Pal Sood (now deceased) through his LRs.

...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹ Yes.

For the petitioner: Mr. Ravi Tanta and Mr. Anirudh

For the petitioner: Mr. Ravi Tanta and Mr. Anirudh Thakur, Advocates.

For the respondents: Mr. B. Nandan Vashista and Mr.

For the respondents: Mr. B. Nandan Vashista and Mr. S.S. Sood, Advocates.

Jiya Lal Bhardwaj, Judge(Oral)

The petitioner by way of present petition filed under Section 24(5) of the H.P. Urban Rent Control Act, 1987 (for short 'the Act') has assailed the judgment dated 13.10.2023 passed by the learned Appellate Authority-II, District Shimla, H.P. whereby its Rent appeal bearing No.16-S/14 of 2021, titled, ***M/s Som Nath Swaran Lal vs. Dr. Shashi Pal Sood*** against the order passed by the learned Rent Controller, Shimla, District Shimla, H.P. in Rent Case No.74-2 of 2017 on 20.10.2021, titled, ***Dr. Shashi Pal Sood and***

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

another versus M/s Som Nath Swaran Lal, has been dismissed and the order of eviction has been affirmed.

2. The parties to the */is* are hereinafter referred to in the same manner, in which, they were referred to before the learned Rent Controller.

3. The landlords had preferred the eviction petition against the tenant firstly, on the grounds of arrears of rent since 01.01.2012 till date and secondly, *bonafide* requirement of the landlords as well as their son namely, Shri Shashwat Sood for their own personal use and occupation of shop No.79/1, Ground Floor, (road level), Lower Bazar, Shimla having approximately 360 square feet area (in short 'the demised premises'), which was rented out to the tenant @Rs.1200/- per annum. It was averred in the petition that the demised premises was let out long time back and the same was purchased by the landlord on 08.11.1989, but no rent note was executed between the landlord and the tenant.

4. The tenant had filed reply to the eviction petition and raised preliminary objections that the petition as instituted is neither competent nor maintainable. The landlords are in occupation of sufficient space and are carrying on commercial activities and, therefore, they have no right to seek eviction of the tenant on the grounds pleaded in the petition. The landlords are trying to invoke

the provisions of the Act as a tool to coerce and pressurize the tenant to enhance the rent of the demised premises exorbitantly. The alleged requirement of the landlords is not *bonafide* and they are already in occupation of more than sufficient space owned by them in the urban area of Shimla, where they are running their business. The landlords are estopped from filing the petition on account of their own acts, deeds, conduct, omission, commission and acquiescence. They have intentionally and deliberately suppressed the material facts and have pleaded such facts, which are false to their own knowledge and the petition is bad for non-joinder and mis-joinder of parties.

5. On merits, it was averred that the rent of the demised premises @Rs.750/- per annum has been fixed. Further, the landlords had themselves refused to receive the rent. It was denied that the demised premises is required for extra facility and as living for their son and as such prayed for dismissal of the eviction petition.

6. The learned Rent Controller on the basis of the pleadings framed the issues in the eviction petition and granted opportunity to the parties to lead their evidence. After recording the evidence led by the parties, the petition instituted by the landlords was allowed and the tenant was held entitled for eviction of the

demised premises on account of arrears of rent w.e.f. 01.01.2012 till date amounting to Rs.17,320/-. However, if the tenant deposits the rent including the interest up-to-date within a period of 30 days from the date of passing the order i.e. 20.10.2021, it is stated that he shall not be evicted from the demised premises on account of arrears of rent. The landlords were also held entitled for eviction of the tenant from the tenanted premises on account of *bonafide* requirement of the landlord as well as his son. The tenant shall vacate the demised premises within a period of 60 days from the date of passing the order.

7. The tenant feeling aggrieved by the order of eviction passed against him, had preferred an appeal before the learned Appellate Authority-II, District Shimla, H.P. which was dismissed on 13.10.2023.

8. The tenant feeling aggrieved by the order passed by the learned Appellate Authority, which has affirmed the order passed by the learned Rent Controller, has approached this Court *inter-alia* on the grounds that after the institution of the eviction petition, both the landlords have died and thus, due to subsequent events, the order of eviction passed by the learned Rent Controller deserves to be quashed and set aside.

9. Learned counsel representing the tenant has placed reliance upon the judgment passed by the Hon'ble Supreme Court in ***Kedar Nath Agrawal (dead) and another vs. Dhanraji Devi (dead) by LRs and another***, (2004) 8 SCC 76 and contended that though the basic Rule is that the rights of the parties should be determined on the basis of the date of institution of the suit or proceeding and the suit/action should be tried at all stages on the cause of action as it existed at the commencement of the suit/action. However, it does not mean that the events happening after institution of the suit or proceeding cannot be considered at all and since after the decision passed by the Rent Controller and during the pendency of the appeal before the learned Appellate Authority-II, District Shimla, H.P., both the landlords have expired, the ground of bonafide requirement, does not exist as on date and the order passed by the Rent Controller, which has been affirmed by the Appellate Authority, deserves to be quashed and set aside.

10. On the other hand, learned counsel representing the landlords supported the order passed by the learned Rent Controller, which has been affirmed by the learned Appellate Authority. He submitted that as per the judgment passed by the Hon'ble Supreme Court in ***D. Sasi Kumar vs. Soundararajan*** (2019) 9 SCC 282, it has been held that the *bonafide* occupation as sought should be

seen only on the date of filing the petition and not on the date of final adjudication of the rights. The Courts should not loose sight that the very judicial process consumes a long period and because of the delay in the process, if the benefit is declined, it would only encourage the tenants to protract the litigation, so as to defeat the rights and thus, prayed for dismissal of the petition.

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

12. Before proceeding further to adjudicate the matter on merits, it would be relevant to notice the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation Limited vs. Dilbahar Singh***, (2014) 9 SCC 78, where the scope and extent of revisional jurisdiction has been laid down. The relevant paragraphs of the judgment read as under:-

"28. Before we consider the matter further to find out the scope and extent of revisional jurisdiction under the above three Rent Control Acts, a quick observation about the 'appellate jurisdiction' and 'revisional jurisdiction' is necessary. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice-versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is co-extensive with that of the trial court. Ordinarily, appellate jurisdiction involves re-hearing on facts and law but such jurisdiction may be limited by the statute itself that provides for appellate jurisdiction. On the other hand,

revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of revisional court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the tribunal/appellate authority, the decision of the revisional court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.

29. With the above general observations, we shall now endeavour to determine the extent, scope, ambit and meaning of the terms "legality or propriety", "regularity, correctness, legality or propriety" and "legality, regularity or propriety" which are used in three Rent Control Acts under consideration.

29.1. The ordinary meaning of the word 'legality' is lawfulness. It refers to strict adherence to law, prescription, or doctrine; the quality of being legal.

29.2. The term 'propriety' means fitness; appropriateness, aptitude; suitability; appropriateness to the circumstances or condition conformity with requirement; rules or principle, rightness, correctness, justness, accuracy.

29.3. The terms 'correctness' and 'propriety' ordinarily convey the same meaning, that is, something which is legal and proper. In its ordinary meaning and substance, 'correctness' is compounded of 'legality' and 'propriety' and that which is legal and proper is 'correct'.

29.4. The expression "regularity" with reference to an order ordinarily relates to the procedure being followed in accord with the principles of natural justice and fair play.

30. We have already noted in the earlier part of the judgment that although there is some difference in the language employed by the three Rent Control Acts under consideration which provide for revisional jurisdiction but, in our view, the revisional power of the High Court under these Acts is substantially similar and broadly such power has the same scope save and except the power to invoke revisional

jurisdiction suo motu unless so provided expressly. None of these statutes confers on revisional authority the power as wide as that of appellate court or appellate authority despite such power being wider than that provided in Section 115 of the Code of Civil Procedure. The provision under consideration does not permit the High Court to invoke the revisional jurisdiction as the cloak of an appeal in disguise. Revision does not lie under these provisions to bring the orders of the Trial Court/Rent Controller and Appellate Court/Appellate Authority for re-hearing of the issues raised in the original proceedings.

31 to 42.....

43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re- appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

13. In view of the law laid down by the Constitution Bench in the aforementioned judgment, this Court while exercising the revisional jurisdiction, cannot act as an Appellate Court to re-appreciate or re-assess the evidence for coming to a different finding on facts. This Court cannot be equated with the power of reconsideration of all questions of fact as a Court of first appeal.

14. Learned counsel for the tenant has submitted that during the pendency of the eviction petition before the Rent Controller, one of the landlords had expired and after passing the order by the learned Rent Controller and during the pendency of the appeal before the learned Appellate Authority, another landlord has also expired and, therefore, keeping in view the fact that the legal heirs of the original landlords are having sufficient accommodation, the order passed by the learned Rent Controller, which has been affirmed by the Appellate Authority cannot sustain in the eyes of law, and thus, prayed for quashing of the same.

15. It is not in dispute that the landlords when had instituted the eviction petition against the tenant, requiring the demised premises for themselves as well as for their son and they had placed ample material before the learned Rent Controller that they required the demised premises for their son and also for installation of X-ray machine, which was required for the facility to

be provided to the visiting patients for medical treatment, which findings have not been assailed by the tenant and the only plea, which has been taken, is that after demise of both the landlords, the eviction order cannot be executed. However, the said contention cannot be accepted in view of the law laid down by the Hon'ble Supreme Court in ***Gaya Prasad vs. Pradeep Srivastava*** (2001) 2 SCC 604, wherein it has been held that the crucial date for deciding the *bonafides* of the requirement of landlord, is the date of his application for eviction. This was held with the observation that where the landlord had instituted eviction proceedings for *bonafide* requirement of his son, who wanted to start a clinic, but due to continuation of litigation for a long period, the landlord had expired, does not extinguish the bonafide requirement of the landlords' family. Thereafter, in ***G.C. Kapoor vs. Nand Kumar Bhasin and others***, (2002) 1 SCC 610, it has again been reiterated that the *bonafide* need of landlord has to be examined only on the date of institution of the proceedings and if a decree for eviction is passed and death of landlord occurs during pendency of appeal preferred by the tenant, it will make no difference, as his legal heirs are fully entitled to defend the decree.

16. The above view has again been reiterated by the Hon'ble Supreme Court in ***D. Sasi Kumar's*** case (supra), and

therefore, the contention raised by the learned counsel for the tenant that both the landlords have died and the requirement of *bonafide* is not there and further the legal heirs of the landlord once having sufficient accommodation cannot execute the order against the tenant, cannot be accepted. Further, it is for the landlord to see his requirement and the tenant cannot dictate terms to the landlord. The landlord is entitled to enjoy his property by putting it to its fullest use and beneficial to him.

17. Learned counsel for the landlords has also referred to the judgment passed by this Court in CMPMO No.250 of 2022, titled, ***M/s Som Nath Swaran Lal vs. Dr. Shashi Pal Sood***, in which the tenant had taken the similar objection that since one of the landlords has expired, the order passed by the learned Rent Controller, due to subsequent developments, cannot be executed. However, this Court, while dismissing the petition instituted by the tenant had specifically observed that the subsequent development is not to be seen as per the judgment passed in ***Gaya Prasad's*** case (supra), wherein it has been held that the crucial date for deciding the eviction petition is the date of filing of the petition. In the aforementioned petition preferred by the petitioner, which was dismissed by a coordinate Bench of this Court, he had claimed to frame an additional issue to the effect that "Whether upon death of

original petitioner Smt. Monika Sood, the demised premises is still *bonafidely* required by now surviving petitioner and his son for their own use and occupation as alleged?”. However, the said contention was negated by this Court, when the petition instituted by the tenant was dismissed specifically holding that bonafide requirement of landlord is to be seen on the date of filing the rent petition on the ground of bonafide requirement.

18. The aforementioned order passed by the coordinate Bench has not further been challenged by the tenant and thus, it has become final and this Court while deciding the present petition cannot take different view. Furthermore, once the Hon'ble Supreme Court in the aforementioned judgments have clearly held that it is the date of institution of the petition, which is to be seen for the purpose of adjudicating the dispute involved in the */is*, the argument advanced by the learned counsel for the tenant is without any merit and the same is hereby rejected.

19. Consequently, I do not find any merit in the revision petition and the same is accordingly dismissed. However, there shall be no order as to costs. Pending application(s), if any, shall stand disposed of.

24th September, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge