

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No.135 of 2026

Decided on: 25th September, 2026

Kashmir Singh

...Petitioner

Versus

Madan Lal

...Respondent

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner:

Mr. Varun Chauhan, Advocate.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner/tenant feeling aggrieved by the order dated 23.07.2026 passed by the learned Appellate Authority (C.B.I. Court), Shimla, District Shimla, H.P., has filed the present revision petition, whereby an application filed by the respondent/landlord under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure (in short "CPC") for leading additional evidence has been allowed.

2. The respondent/landlord had filed an eviction

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

petition against the petitioner/tenant firstly on the ground that the petitioner/tenant is in arrears of rent at the rate of Rs.6,600/- per month w.e.f August 2017 and thereafter @Rs.7,260/- per month w.e.f. January 2018 and secondly, the demised premises are *bona fide* required by him for his personal as well as his family's use.

3. The learned Rent Controller, vide order dated 08.08.2024, dismissed the said eviction petition.

4. The respondent/landlord, feeling aggrieved by the order passed by the learned Rent Controller, has preferred an appeal before the learned Appellate Authority. In the appeal, the respondent/landlord filed an application under Order 41 Rule 27 read with Section 151 of the CPC for leading additional evidence, stating therein that he had disclosed to his counsel that the demised premises in question, though partitioned in the year 2004, but the actual partition was affected in the year, 2012 by family arrangement. He had also disclosed that he along with his wife, two sons, their wives and four grandchildren have their Aadhaar cards, showing

the number of the members of the family. It was further averred that he had also disclosed to the counsel about the revenue records showing his ownership in the premises, but his counsel told him that since it is not a Civil Suit, the said documents are not necessary. After dismissal of the eviction petition, the respondent/landlord engaged a new counsel for filing the appeal and disclosed all these facts to him, who advised him to bring these documents on record. As per the documents of family arrangement, the demised premises has fallen to the share of the respondent/landlord.

5. The petitioner/tenant contested the application by filing a reply, taking preliminary objections of maintainability. It was averred that the respondent/landlord is trying to create additional evidence. It was denied that any family arrangement had taken place between the parties in the years 2004 and 2012 and the respondent/landlord is residing at Rukmani Niwas, North Oak, Sanjauli, Shimla and has ample space and accommodation. It is also denied that the documents are not relevant and the respondent/landlord

is creating false evidence. He was aware of these documents from the very beginning of the case and had ample opportunity to produce them, rather he chose not to do so before the learned Rent Controller and as such prayed for dismissal of the application.

6. The learned Appellate Authority, after considering the provisions of Order 41 Rule 27 of the CPC allowed the application on 23.07.2026, holding that the documents, which are sought to be produced on record, cannot be said to have fabricated or created by the respondent/landlord on his own. The photocopies of the Aadhaar cards of the respondent/landlord and his family members are a part of public record. The copy of family arrangement, the original of which is stated to have been filed in Civil Suit, titled ***Ram Pal and others vs. Madan Lal and others***, is pending before learned Senior Civil Judge, Shimla and thus allowed the application filed by the respondent/landlord. It was observed that the respondent/landlord intends to prove these documents by examining himself as well as by examining the

Civil Ahlmad from the Court of learned Senior Civil Judge, Shimla, in which circumstances, the petitioner/tenant shall get an equal opportunity to cross-examine the witnesses and also to rebut the additional evidence. The respondent/landlord had exercised due diligence by disclosing all the documents to his counsel, but such evidence was not produced on record and the respondent/landlord cannot be made to suffer for the wrong and illegal advice given by his counsel.

7. The petitioner/tenant feeling aggrieved by the order dated 23.07.2026 passed by the learned Appellate Authority, whereby the application filed by the respondent/landlord was allowed, has challenged the same on the grounds that the learned Court below has committed an error while allowing the application for the reason that by way of producing the documents by leading additional evidence, the respondent/ landlord has tried to fill up the lacuna, which could not have been allowed by the learned Court below. The learned Appellate Authority has failed to

appreciate the provisions of Order 41 Rule 27 of the CPC which are not intended to fill up the lacuna and since the respondent/landlord has failed to establish due diligence as mandated under law, the excuse that the previous counsel advised against filing these documents does not constitute due diligence under law and thus, prayed for setting aside the said order passed by the learned Appellate Authority.

8. I have heard the learned counsel for the petitioner/tenant and also perused the documents placed on record.

9. The learned Appellate Authority after considering the documents, which are sought to be produced and further to lead evidence to prove the revenue record, photocopies of the Aadhaar cards of the respondent/landlord and his family members and the document pertaining to the family arrangement, the original of which has been stated to have been filed in the Civil Suit mentioned above, has allowed the application holding that once these documents were available with the respondent/landlord and the same were given to the

counsel representing him before the Rent Controller, if the same were not produced by his counsel and have now been permitted to be placed on record and sought to be proved by examining the respondent/landlord as well as examining the Civil Ahlmad from the Court of learned Senior Civil Judge, Shimla, no prejudice is going to be caused to the petitioner/tenant, who would be granted an opportunity to cross-examine the witnesses and also to rebut the additional evidence.

10. So far as the argument raised by the learned counsel representing the petitioner/tenant that the respondent/landlord has not carved out a case under Order 41 Rule 27 of the CPC is concerned, as per the language of Rule 27 of Order 41 of the CPC, where the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, the Court can allow the

party to produce such evidence or examine the witness.

11. In the present case, the respondent/landlord, as per his wisdom, had handed over the documents to the counsel, who was engaged by him for eviction of the petitioner/tenant and in case the counsel did not produce the said documents, the respondent/landlord should not be made to suffer of no fault on his part. It is settled law that Courts are meant to advance substantial justice and not to throttle the cause of justice on technical grounds. In the present case, the learned Appellate Authority, which was vested with the jurisdiction to entertain the application, has exercised the jurisdiction vested with it and further also considered the fact that the documents which are sought to be produced are part of public record and are not fabricated by the respondent/landlord. Permitting them cannot cause any prejudice to the petitioner/tenant and, therefore, no illegality has been committed by the learned Appellate Court while allowing the application filed by the respondent/landlord.

12. This Court while exercising the revisional jurisdiction can only interfere with the order, if the order passed by the authority below has caused material injustice to the party. In the present case, as already noticed above, once the Appellate Authority has clearly observed that the petitioner/tenant will get an opportunity to cross-examine the witnesses and further the documents, which have been sought to be placed on record and which are yet to be proved are not fabricated, this Court finds no reason to interfere with the order passed by the learned Appellate Authority.

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

25th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**