IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 140 of 2025

Date of Decision : .28.04.2026

Satish Kumar & anr.

...Petitioner

Versus

Vipan Kumar ...Respondent

Coram:

The Hon'ble Mr. Justice Romesh Verma. Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Sumit Sood, Advocate.

For the respondent : Mr. Sunil Chauhan, Advocate.

Romesh Verma, Judge(oral)

The present petition arises out of the impugned order dated 20.08.2025, as passed by the learned Rent Controller, Court No.1, Shimla, whereby the application filed by the present respondent under Order 9 Rule 13 read with Section 151 C.P.C for setting aside ex-parte order of eviction dated 07.05.2018 has been allowed.

2. Brief facts of the case are that the present petitioner/landlord filed the eviction petition against the present respondent on the ground of arrears of rent and cease

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

to occupy the premises. The notice was issued to the present respondent and consequently ex-parte eviction order was passed against the present respondent on 07.05.2018.

3. The respondent filed an application for setting aside said ex-parte order of eviction on the ground that the service as effected upon him cannot be considered to be valid service.

4. Learned Rent Controller, Court No.1, Shimla while perusing the report Ext.CW1/A came to the conclusion that the report is defective, since in the said report it has not been mentioned that Vipan Kumar was identified by any person or any witness in the presence of the which applicant Vipan Kumar, refused to receive the summons. Further it has been held by the learned Rent Controller, Court No.1, Shimla that Sh. Mithun Lal, Process Server was called as Court witness and examined as CW-1 and he deposed that the respondent had refused to take summons in the presence of his daughter and this fact has not been mentioned in the summoning report. Therefore, disbelieving the report Ext.CW1/A ,the learned Rent Controller allowed the application filed under Order 9 Rule 13 C.P.C by the respondent.

5. After perusal of the impugned order, this Court is of the opinion that the impugned order does not suffer from any infirmity and the learned Rent Controller, after taking into consideration each and every aspect of the matter, has rightly allowed the application as filed by the respondent/tenant.

6. Consequently, the impugned order does not suffer from any infirmity or jurisdictional error but it is partially modified to the extent that application which has been allowed by the learned Rent Controller shall be subject to the payment of cost of Rs.10,000/- to be paid to the petitioner on the next date of hearing. The Rent Controller, Court No.1, Shimla is requested to expedite the present matter since the rent petition pertains to the year 2016.

7. With these observations, the present petition is disposed off.

Pending application(s), if any, also stands disposed off.

(Romesh Verma),
Judge

28.04.2026 (veena)