IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 664 of 2025

Decided on: 30.10.2026

Swaran Ram (deceased) through LRs

... Petitioners

Versus

Satish Kumar & another

...Respondents

Coram
Hon'ble Mr. Justice Virender Singh, Judge
Whether approved for reporting?

For the Petitioners: Mr. Mohit Jaitak, Advocate (through Video Conferencing).

For the Respondents *:* Mr. Ajay Sharma, Senior Advocate, assisted by Mr. Atharv Sharma, Advocate.

Virender Singh, Judge (oral)

Petitioners Swaran Ram & others have filed the present petition, under Article 227 of the Constitution of India, against the order dated 30.10.2025, passed by the Court of learned Senior Civil Judge, Court No. 1, Una, District Una, H.P. (hereinafter referred to as 'the Executing Court'), in Execution Petition No. 9 of 2022, titled as, 'Satish & ors. Versus Swaran Ram & anr.'.

2. By way of order dated 30.10.2025, the learned Executing Court has issued the warrant of possession, in favour of the respondents.

3. Parties to the lis, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned Executing Court.

4. Brief facts, necessary for the disposal of the present petition, before this Court, as borne out, from the documents, annexed with the petition, may be summed up as under:

The decree-holders, Satish Kumar and Anuj Kumar, had filed the execution petition, under Section 26 of the H.P. Urban Rent Control Act, 1987, (hereinafter referred to as the "Rent Act") read with Order 21 Rule 32, and Section 151 CPC, for execution of the order dated 20.05.2022, passed by this Court, in Civil Revision No. 122 of 2004, titled as, 'Swaran Ram & anr. verus Ram Dass Sharma etc.'.

4.1 Vide judgment dated 20.05.2022, this Court, while deciding the Civil Revision No. 122 of 2004, filed by the decree-holder, has modified the eviction order to the extent that such order of eviction will be subject to the right of the tenant to re-enter the premises, equivalent to what he had, prior to eviction, in the re-built building, subject to mutually settling new terms of tenancy with the landlord.

4.2 By way of execution petition, a prayer has been made to issue the warrant of possession, for vacant possession of the shop. The eviction orders were initially

passed by the learned Rent Controller, which were affirmed by the learned Appellate Authority and were modified, by this Court, in Civil Revision No. 122 of 2004.

5. When, put to notice, the JDs filed the objections, taking the preliminary objections that the execution petition is not maintainable, as the predecessor-in-interest of the JDs, Shri Swaran Ram and Subhash Chand, filed Civil Suit No. 1168 of 2013 for pre-emption, titled as "Satish Kumar vs. Swaran Ram" with regard to the suit premises, and same has been decreed by the learned Executing Court, on 30.05.2025, and the JDs have been held entitled to enforce their right of pre-emption, in respect of suit premises, and the sale deed dated 10.3.2011, executed by Sudha Sharma in favour of decree-holder, has been set aside.

6. Another preliminary objection has been taken that the execution petition is bad for non-joinder of necessary parties, as the original owner Sudha Sharma, wife of Ram Dass Sharma, and Anuj Kumar son of Sharam Dutt, are necessary parties, who have not been impleaded, in the present case. The decree-holder has no locus standi to file the execution, as he ceases to be the landlord, since the sale deed, dated 10.3.2011, executed by original owner Sudha Sharma, in favour of decree-holder, has been set aside by the

Court in Civil Suit No. 1168 of 2013. Other contents have also been denied.

7. These objections were replied by the decree-holder by denying the preliminary objections.

8. The learned Executing Court has dismissed the objections on 30.10.2025, and the warrant of possession qua delivery of the concerned rented premises was issued.

9. The said order has been assailed, before this Court.

10. In this case, the eviction order passed by the learned Rent Controller has now attained finality, with modification, as made by this Court, in Civil Revision No. 122 of 2004. After the eviction order attained finality, the legal consequence of the same is that the decree-holders are entitled for the possession of the rented premises.

11. So far as the decree in suit for pre-emption is concerned, admittedly, when the said decree has been passed, the eviction order has already attained finality, as the Civil Revision filed by the judgment-debtors has already been disposed of by this Court, on 20.05.2022.

12. During the course of argument, it has been pointed out by the learned counsel appearing for the JDs that the appeal against the judgment and decree dated 30.05.2025, passed in Civil Suit No. 1168 of 2013, is pending

adjudication. Meaning thereby, the judgment and decree dated 30.05.2025 has not yet attained finality. It has also been pointed out that the warrant of possession, issued in the present case, has already been executed.

13. Admittedly, warrant of possession has been executed on 3.11.2025, as per the report, made on the warrant of possession, issued by the learned Executing Court. The said document has been placed on record by the Decree Holder, by way of filing reply to the petition, under Article 227 of the Constitution of India.

14. In view of above facts, this Court is of the view that the JDs could not point out any jurisdictional error, in the order passed by the learned Executing Court, while dismissing the objections, so raised.

15. Consequently, the petition is dismissed.

16. The pending application(s), if any, are also disposed of.

(Virender Singh)
Judge

30.10.2026
Kalpana