



(2025:HHC:37859)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

*Civil Revision No. 58 of 2017 a/w Civil
Revision Nos. 59 & 60 of 2017
Date of Decision: 11th November, 2025*

1. Civil Revision No.58 of 2017

Shakuntla Shashi and otherspetitioners

Versus

Shabnam SoodRespondent

2. Civil Revision No. 59 of 2017

M.K. Chaudhary petitioner

Versus

Shabnam SoodRespondent

3. Civil Revision No. 60 of 2017

Y.P. Nautiyal petitioner

Versus

Shabnam SoodRespondent

Coram:

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹

For the petitioner(s) : Mr. Balwant Kukreja, Advocate.

For the respondent(s) : Mr. Deepak Bhasin, Sr. Advocate, with Mr.
Sambhav Bhasin, Advocate.

Bipin Chander Negi, Judge (oral)

The present revisions have been filed by the
tenant/petitioner being aggrieved by the impugned judgment passed by



the 1st Appellate Court. The landlord /respondent is common in all the three petitions as the tenants/petitioners occupy portions of the same building. The main contention urged on behalf of the petitioners/tenants pertains to the existence of a landlord/tenant relationship inter se the parties. Since a common question arises for consideration in all the three petitions therefore all three petitions are being taken up together for consideration.

2. Insofar as Civil Revision No.59 of 2017 titled M. K. Chaudhary versus Shubham Sood is concerned, it would be appropriate to refer to Ex.R-1, i.e., legal notice issued by the respondent/landlord to the tenant/petitioner in the aforesaid case. The relevant extract of the legal notice reads as follow:-

"1. That you are a tenant under my client in respect of one residential set on a monthly rent of Rs.719/- (incl. of Taxes)."

Reply thereto filed by the tenant/petitioner through a counsel is appended as Ex.R-2. Reply to the aforesaid Paragraph of the legal notice dated 15.12.2006 reads as follow:-

"1. That contents of para 1 of your legal notice are admitted to be correct as indeed my client is a tenant in the building owned by your client."

3. Similarly, in Civil Revision No.60 of 2017, titled Y.P. Nautiyal versus Shubham Sood is concerned, legal notice dated 15.12.2016 (Ex.PW3/D) is issued by the present respondent/landlord. The relevant extract whereof reads as follow:-



“1. That you are a tenant under my client in respect of one residential set on a monthly rent of Rs.654/- (incl. of Taxes).”

Response thereto filed by the tenant/petitioner through a counsel dated 29.12.2006 reads as follow:-

“1. That contents of para 1 of your notice are admitted to be correct as indeed my client is a tenant in the building owned by your client.”

4. In view of the categoric admission by the petitioners/tenants of being a tenant under the landlord i.e Shubham Sood in the aforesaid two cases at hand, a landlord/tenant relationship stands duly established. Further the fact that the aforesaid two responses were filed through a legal counsel after seeking appropriate legal assistance cannot be lost sight of.

5. Insofar as Civil Revision No.59 of 2017, titled Shakuntla Shashi and others versus Shubham Sood is concerned, the present revision has been filed by the tenant/landlord being aggrieved by the impugned judgment passed by the 1st Appellate Court, whereby the judgment of the Rent Controller has been reversed. The main contention urged on behalf of the petitioner/tenant pertains to the existence of a landlord/tenant relationship inter se the parties. In this context, attention of this Court has been invited to the Rent Petition specifically paras 3(a) and 3(b) thereof wherein the name and address of the landlord have been detailed. In the reply to the corresponding paragraph, the



petitioner/tenant has categorically denied the existence of any landlord/tenant relationship inter se the parties.

6. The eviction petition in the case at hand had been filed by the present respondent on 12.5.2008. The same was filed on the following grounds:-

(a) the suit premises is bonafidely required by the respondent for the purpose of building/rebuilding and for making substantial additions and alterations which cannot be carried out without getting the same vacated;

(b) the petitioner-tenant has materially impaired the value and utility of the suit premises.

On the pleadings of the parties, one of the issues framed before the Rent Controller pertained to the existence of relationship of landlord and tenant inter se the parties. The trial Court was of the considered opinion that there existed no relationship of landlord and tenant inter se the parties and hence the rent petition was dismissed on 31.12.2015.

7. Feeling aggrieved of the same, the present respondent/landlord had preferred an appeal which was instituted before the 1st Appellate Court on 15.2.2016. The same was decided on 26.11.2016. After appreciation of the pleadings and evidence in the case at hand, the appeal filed by the present respondent/landlord was allowed. The 1st Appellate Court was of the view that there existed a relationship of landlord and tenant inter se the parties and that the landlord/respondent bona-fidely required the building for the purpose of rebuilding and



reconstruction. Insofar as the ground qua material impairment of the value and utility of the suit premises by the petitioner/tenant was concerned, the same was dismissed by the 1st Appellate Court.

8. What is the scope of interference in a petition seeking revision of order passed by the Rent Controller or Appellate Authority is now no longer res integra.

9. For the purpose of convenience and ready reference sub-

Section (5) of Section 24 of the Act is extracted as under:-

“Vesting of Appellate Authority on officers by the State Government.

Section 24

(5) The High Court may, at any time, on the application of the aggrieved party or on its own motion call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceeding and may pass such order in relation thereto as it may deem fit.”

[Emphasis supplied]

10. A five-Judges Bench of the apex Court reported in Hindustan Petroleum Corporation Limited vs. Dilbahar Singh, (2014) 9 SCC 78. The findings can be summarized as under:

(i) The term ‘propriety’ would imply something which is legal and proper.

(ii) The power of the High Court even though wider than the one provided under Section 115 of the Code of Civil Procedure is not wide enough to that of the appellate Authority.

(iii) Such power cannot be exercised as the cloak of an appeal in disguise.



(iv) Issues raised in the original proceedings cannot be permitted to be reheard as a appellate Authority.

(v) The expression “revision” is meant to convey the idea of much narrower expression than the one expressed by the expression “appeal”. The revisional power under the Rent Control Act may not be as narrow as the revisional power under Section 115 of the CPC but certainly it is not wide enough to make the High Court a second court of first appeal. While holding so the Court reiterated the view taken in *Dattonpant Gopalvarao Devakate vs. Vithalrao Maruthirao Janagawal*, (1975) 2 SCC 246.

(vi). The meaning of the expression “legality and propriety” so explained in *Ram Dass vs. IshwarChander*, (1988) 3 SCC 131 was only to the extent that exercise of the power is not confined to jurisdictional error alone and has to be “according to law”.

(vii) Whether or not the finding of fact is according to law or not is required to be seen on the touch stone, as to whether such finding of fact is based on some legal evidence or it suffers from any illegality like misreading of the evidence; overlooking; ignoring the material evidence all together; suffers from perversity; illegality; or such finding has resulted into gross miscarriage of justice. Court clarified that the ratio of *Ram Dass* (supra) does not exposit that the revisional power conferred upon the High Court is as wide as an appellate power to reappraise or reassess the evidence for coming to a finding contrary to the findings returned by the authority below.

(viii) In exercise of its revisional jurisdiction High Court shall not reverse findings of fact merely because on reappraisal of the evidence it may have a different view thereupon.

(ix) The exercise of such power to examine record and facts must be understood in the context of the purpose that such findings are based on firm legal basis and not on a wrong premise of law.



(x) Pure findings of fact are not to be interfered with. Reconsideration of all questions of fact is impermissible as Court cannot function as a Court of appeal.

(xi) Even while considering the propriety and legality, high Court cannot reappreciate the evidence only for the purposes of arriving at a different conclusion. Consideration of the evidence is confined only to adjudge the legality, regularity and propriety of the order.

(xii) Incorrect finding of fact must be understood in the context of such findings being perverse, based on no evidence; and misreading of evidence.

11. The well-settled principles as to what has to be adjudicated in a rent petition have been succinctly enumerated in case reported as **2018**

(2) SCC 352, titled *Kanaklata Das & Ors. Vs. Naba Kumar Das & Ors.*

The relevant extract whereof is being reproduced here-in-below:-

“11.1 First, in an eviction suit filed by the plaintiff (Landlord) against the defendant(Tenant) under the State Rent Act, the landlord and tenant are the only necessary parties. In other words, in a tenancy suit, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant.

11.2 Second, the landlord (plaintiff) in such suit is required to plead and prove only two things to enable him to claim a decree for eviction against his tenant from the tenanted suit premises. First, there exists a relationship of the landlord and tenant between the plaintiff and the defendant and second, the ground(s) on which the plaintiff landlord has sought defendant's-tenant's eviction under the Rent Act exists. When these two things are proved, eviction suit succeeds.

11.3 Third, the question of title to the suit premises is not germane for the decision of the eviction suit. The reason being, if the landlord fails to prove his title to the suit premises but proves the existence of relationship of the landlord and tenant in relation to the suit



premises and further proves existence of any ground on which the eviction is sought under the Tenancy Act, the eviction suit succeeds. Conversely, if the landlord proves his title to the suit premises but fails to prove the existence of relationship of the landlord and tenant in relation to the suit premises, the eviction suit fails. (See Dr. Ranbir Singh vs. Asharfi Lal.

11.4 Fourth, the plaintiff being a dominus litis cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish unless such person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively. In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit. (See Ruma Chakraborty vs. Sudha Rani Banerjee & Anr.

11.5 Fifth, a necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. (See Udit Narain Singh Malpaharia vs. Additional Member Board of Revenue).

11.6 Sixth, if there are co-owners or co-landlords of the suit premises then any co-owner or co landlord can file a suit for eviction against the tenant. In other words, it is not necessary that all the owners/landlords should join in filing the eviction suit against the tenant. (See- Kasthuri Radhakrishnan & Ors. vs. M. Chinnian & Anr.

12. Hence from the aforesaid, it is evident that the question on title is not germane for a decision of the eviction suit. In an eviction petition, the landlord has to show that there exists a relationship of a landlord and tenant between the parties. Other than the aforesaid, the



grounds on which the petitioner/landlord is seeking the eviction of the tenant under the Rent Act need to be enumerated therein. On proving the aforesaid, the eviction petition succeeds.

13. Based on the aforesaid as has already been stated supra, an issue qua existence of the landlord/tenant relationship inter se the parties was framed by the trial Court and the onus to prove the same was upon the petitioner/tenant. The evidence by way of affidavit (Examination-in-Chief) insofar as the present petitioner/tenant is concerned is at page 93 of the paper book of the trial Court. In the very first paragraph thereof the petitioner/tenant admits that the premises in the case at hand had been let out to him by Smt. Aisha Bibi qua payment of rent, the petitioner/tenant admits having made the same to Aisha Bibi and also to her agent one Sh. Acchru Ram. Payment is alleged to have been made both by way of cheque and cash.

14. The said Acchru Ram has been produced in evidence as PW-1 by the present respondent/landlord. His deposition was recorded on 29.05.2010. In his examination-in-chief, he has deposed that he has been residing in the said building for the last thirty years. Further, he has submitted that for the last 30 years he is taking care of the premises (cottage and building), in the case at hand. He has stated that he has been collecting rent from the tenants on behalf of Smt. Aisha Bibi. Even after her death, he was collecting rent, and as per his statement, rent was being collected even from the present petitioner/tenant till September,



2009. The eviction petition in the case at hand has been filed on 12.5.2008. PW-1 (Acchru Ram) has stated that after filing of the eviction petition, the petitioner/tenant has stopped paying rent. The value of rent collected every month by Achhru Ram from the tenants has been categorically deposed in his examination-in-chief. After the death of Aisha Bibi as per the deposition of PW-1 (Acchru Ram), the ownership of the building devolved on her two daughters namely Shabnam (present landlord/respondent) and Nargis, and the portion of the building wherein the present petitioner/tenant is residing fell to the share of Shabnam). Other than the aforesaid, he has submitted that the respondent/landlord, for the last 10 to 15 years is residing in Bangalore.

15. In the cross-examination conducted by the present petitioner/tenant of Sh. Acchru Ram PW-1, nothing worthwhile has been elicited. In his cross-examination, he has submitted that he has been appointed as an Agent by the mother of the present respondent/landlord. Further in his cross examination, he has deposed that Aisha Bibi was married to one Kedar Nath. Both of them were residing at Victory Tunnel. Aisha Bibi was the owner of the demises premises. He has categorically deposed in cross examination that other than her two daughter, there was none in her family. Nothing has been adduced in the cross examination of the said witness, wherefrom it can be said that Acchru Ram was not receiving rent on behalf of the present respondent/landlord. Conspicuous



by absence in the cross-examination are the questions qua collection of rent on behalf of the present respondent/landlord.

16. Reference in this respect can be made to the decision of the Hon'ble Apex Court in **Arvind Singh vs. State of Maharashtra, 2021(11)**

SCC 1. Relevant extract is being reproduced herein below:-

“62.

“15.. ...

16. ... A Division Bench of the Patna High Court in *Karnidan Sarda v. Sailaja Kanta Mitra*, 1940 SCC OnLine Pat 288: AIR 1940 Pat 683 has laid down that it cannot be too strongly emphasised that the system of administration of justice allows of cross-examination of opposite party's witnesses for the purpose of testing their evidence, and it must be assumed that when the witnesses were not tested in that way, their evidence is to be ordinarily accepted... ..”

17. Besides the aforesaid, respondent/landlord has deposed as PW-3. In her examination-in-chief, she has stated that her mother Aisha Bibi had died on 3.5.1994. By virtue of her duly registered Will dated 16.7.1991, the demised premises had fallen to her share. The registered Will is stated to have been probated vide order dated 20.2.1995. In her examination, she admits that the property was let out by her mother, a fact not disputed by the tenant/present petitioner. In her examination-in-chief, she has categorically submitted that rent after 1st November, 2009 has not been paid by the petitioner/tenant. In her cross-examination, she has submitted that she has never collected rent from the petitioner/tenant.

18. On the basis of the aforesaid evidence on record in Civil Revision No.59 of 2017 titled *Shakuntla Shashi and others versus*



Shabnam Sood, I see no reason to interfere in the finding recorded by the 1st Appellate Court with respect to a landlord tenant relationship existing inter-se the parties.

19. Qua the condition of the building, one Sh. V.K, Sood, who is the technical expert produced by the landlord/respondent had deposed as PW-2. In his deposition, he has placed on record Exhibit PW-2/A. From a perusal of the same, it is evident that the respondent/landlord had engaged him for the purpose of inspecting the building and preparing the report. Other than the aforesaid, he has placed on record map Exhibit PW-2/C which has been submitted by the respondent/landlord for approval before the Municipal Authority.

20. In order to demonstrate the condition of the building, the respondent/landlord has examined one Sh. V.K. Sood as PW-2. The said individual remained posted as a Junior Engineer in the HPPWD and had retired as an Executive Engineer. The 1st Appellate Court has correctly observed that the said individual had sufficient knowledge and experience with respect to structure of the building. In his deposition, he has stated that the building is hundred years old and that the wood in the walls has become rotten. The building is stated to have outlived its life utility and requires rebuilding. Rebuilding cannot be carried out without vacating the entire building. Eviction petitions against all the tenants have been filed, the same is evident from the deposition of the landlord/respondent. A



proposed construction plan Exhibit PW-2/C has already been submitted to the corporation.

21. In view of the aforesaid, the 1st Appellate Court on the basis of pleadings and evidence on record categorically held that the building in the case at hand is required by the respondent/landlord bona-fidely for purpose of rebuilding and reconstruction. It is well-settled that when an eviction is sought on the ground of rebuilding and reconstruction, condition of the building is not required to be gone into. For the aforesaid reasons, the findings returned by the 1st Appellate Court in this respect call for no interference.

22. In view of the aforesaid discussion and for the reasons recorded hereinabove, all the three revision petitions being devoid of merit are accordingly dismissed. Pending miscellaneous applications, if any, also stand disposed of.

11th November, 2025 (Tarun)

(Bipin Chander Negi)
Judge