

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.427 of 2025
Reserved on: 07.11.2025
Decided on: 28.11.2025

Smt. Santosh Sood	... Petitioner
Versus	
Sh. Raghav Karol	... Respondent

Coram
Hon’ble Mr. Justice Ajay Mohan Goel, Judge.
Whether approved for reporting?¹

For the petitioner	:	Mr. Ashok Sud, Senior Advocate, with Mr. Rajat, Advocate.
For the respondent	:	Mr. Ankush Dass Sood, Senior Advocate, with M/s Nitin Thakur and Udit Shourya Kaushik, Advocates.

Ajay Mohan Goel, Judge

By way of this petition, the petitioner has challenged the order passed by the learned Rent Controller, in terms whereof, an application filed by the petitioner under Order XI, Rules 1, 2 and 4 read with Section 151 of the Civil Procedure Code stands rejected.

2. Brief facts necessary for the adjudication of this petition are that the respondent has filed a petition under Section 14 of the Himachal Pradesh Urban Rent Control Act against the present petitioner. In the course of pendency of this petition, the petitioner filed an application under Order XI, Rules 1, 2 and 4 of the Civil Procedure Code stating therein that the applicant had denied the relationship of landlord and tenant between the parties. The non-

¹ *Whether reporters of the local papers may be allowed to see the judgment?*

2025:HHC:40718

applicant had filed rejoinder to the reply, but had given an evasive response as far as this aspect of the matter was concerned. According to the applicant, non-applicant had no right to file the eviction petition in light of an order passed by the High Court of Himachal Pradesh In Civil Suit No.52 of 2007, dated 24.06.2009. The applicant expected the non-applicant to admit the pendency of the Civil Suit, but the non-applicant neither denied nor admitted anything qua that including as to whether said order is operating against the non-applicant or not and in light of the evasive reply the applicant intended to serve certain Interrogatories on the non-applicant qua the status of the restraint order passed by the High Court. It was further mentioned in the application that as the non-applicant in the rejoinder had not uttered a single word qua the fact that all the partners of M/s New Light Business Center were necessary party to the eviction proceedings and that the applicant was not the sole tenant, therefore also, certain Interrogatories were required to be put to the non-applicant as to what he had to say about the Partnership Deed appended with the reply.

3. The Interrogatories, which were appended with the application, read as under:-

“1. Whether an order dated 24.6.2009 was passed by Hon’ble High Court of HP in Civil Suit No.52/2007?

2. Whether the petitioner is obeying the said order in its

2025:HHC:40718

letter and spirit?

3. Whether any rent was received by Smt. Kaushalya qua the premises in question after the Civil Suit was filed from respondent or any of partners of M/s New Light Business Center?

4. Whether the petitioner was aware of the partnership deed dated 1.4.2003 and 18.12.2003?

4. The non-applicant filed reply to the application and *inter alia* submitted that he was not a party in Civil Suit No.52 of 2007 and that all the partners were not necessary parties in the petition as all daughters of the applicant were married and further the rent receipt produced by the applicant was in the name of Shri Balmukund Sood, the husband of the applicant, which was issued by Smt. Kaushalya Devi, who was the wife of Shri Mehar Chand and maternal grand-mother of the non-applicant. It was also mentioned in the reply that this fact had already been mentioned in the rent petition in Para-19 thereof.

5. In terms of the order under challenge, learned Rent Controller dismissed the application by returning the following findings:-

*“7 The background facts of main case relevant for just decision of application at hand may be summed up thus:
(i) the petitioner had filed eviction petition on 14.06.2021 seeking eviction of respondent from the demised premises i.e. non-residential building stated to be let out on*

2025:HHC:40718

monthly rent of Rs.4,500/- per annum and further alleging that various material alterations have been carried out in the premises which has impairing and diminishing its value and utility and on account of arrears of rent and also on account of bonafide requirement for use and occupation; (ii) it is case of petitioner that late Smt. Kaushalya Goel W/o late Sh. Mehar Chand, his maternal grand-mother, was the original owner of the demised premises and after her death it was inherited by late Smt. Anshu Karol and after her demised being only child, it is inherited by him; (iii) a copy of jamabandi for the year 2009-2010 bearing notes of mutations of inheritance as aforementioned is also filed on record; (iv) it is contested by respondent denying landlord and tenant relationship alleging that dispute qua exclusive title and ownership and entitlement of receiving rent is pending in the civil suit no.52/2007 in which statedly ad-interim injunction order had been issued and the petitioner had sought to be impleaded as defendant, in place of her mother Smt. Anshu and on that account has asserted that petitioner is not entitled to claim himself as landlord till the final adjudication of the said civil suit. Further alleged that respondent and other co-tenants in the premises in question had never attorned in favour of mother of petitioner. It is averred that premises in question was rented out to M/s New Light dry cleaners through Sh. Balmukand Sood, husband of respondent, in the year 1960-1961 by M/s Mauja Mal Mehar Chand a HUF concern owner of the building. Further asserting that

2025:HHC:40718

it was let out for doing any kind of commercial activity and at that time started dry cleaning business in the name and style of M/s New Light dry cleaners in the tenanted premises on rent of Rs. 713/- per annum. It is also averred that in the year 1981 Sh. Mehar Chand had informed the tenant that he had effected some kind of family settlement and thereby allotting the building in question to himself and rent was Rs. 1600/- per annum in the year 1973 and after demise of Mehar Chand his widow Smt. Kaushalya Devi started claiming rent which was increased to Rs.2,238/- per annum. It is also produced. It is further submitted that later on it transpired that said family settlement was set aside by civil court and building in question as a whole including demised premises held to be continued as HUF property of Mis Mauja Mal Mehar Chand and widow of Mehar Chand is not exclusive landlord of demised premises. It is also contended that other coparcners and family members started claiming rent from the tenants/respondent. It is further averred that due to ill health of said Balmukund business at the premises had to be changed into new business in the name and style of M/s New Light Business Center. That after the said business was changed Smt. Kasuhalya Devi had asked Balmukund to increase the rent and same was doubled to Rs.4,500/- from the year 1993 and copies of rent receipts are also filed. The rent was thereafter being paid to Smt. Kasuhalya Devi who did not disclose the alleged family settlement made by her husband has been set

2025:HHC:40718

aside and Sh. Mehar Chand was not exclusive owner of the same and several litigations about the title of building in question and other HUF properties are pending in the court. It is further contended that in the year 1998 Sh. Balamukund, husband of respondent, had inducted her youngest daughter in the business by executing document as due to being aged and not keeping good health he had inducted her for help in business. Since Balmukund had only three daughters and no sons, thus daughters and his wife had started helping him in his business since 1992-1993 and were doing so till his death occurred on 24.11.2003 and after his death tenancy was inherited by his widow and three daughters who were also ordinarily carrying business with him till his death. It is further contended that Balamukund had inducted his wife Smt. Santosh Sood and daughters, namely Mrs. Rutta Sood, Mrs. Geetika Sood and Ms. Shikha Sood, who are already partners in partnership deed of 1998 executed between them. On 01.04.2003 a new business was run in the name and style of 'M/s New Light Business Centre' and it was commercial tenancy so inherited by all the legal heirs of tenant, as such a partnership deed dated 18.12.2003 was executed between them and continued to pay rent to Smt. Kaushalya Devi and business was also changed during lifetime of Smt. Kaushalya Devi. It is further contended that otherwise also premises was taken on rent for doing any kind of business and they only run business in the premises and there is no bar or restriction for changing the nature of business. It is

2025:HHC:40718

further contended that petition is not maintainable without impleading other HUF members and entitlement of receiving rent by Smt. Kaushalya Devi and her daughters and so on so forth.

8. In the entirety facts and circumstances of case, to my mind, the application at hand deserves to be dismissed being interrogatories so sought to be served outrightly do not appear to have reasonable close connection with matters in question or say in other words the same do not appear to be directly in issue. So, the facts and circumstances of case do not warrant grant of prayer of applicant qua interrogatories for a fair trial of the main matter. Moreover in respect to the facts constituting grounds seeking eviction the petitioner having so asserted is obliged to prove the same to bake the claimed relief. As the respondent has denied tenant-landlord relationship, thus it is also primarily for the petitioner to prove necessary facts with respect to the said fact in issue. So far as the interrogatories, as reproduced supra, are concerned, to my mind, particularly the interrogatory no.1 is simply a question of fact and certified copy of same may be tendered on record by the respondent, if so required by her and the question raised in second interrogatory do not seem to have any direct connection with the case at hand, yet the respondent is at liberty to show the same. Third interrogatory is a question of fact asserted by respondent and as a party asserting a fact is primarily obliged to prove the same and also similar is the situation with respect to the fourth interrogatory, thus

2025:HHC:40718

it is for the respondent to prove that if the petitioner was aware of said partnership deeds. Hence, the application at hand is disposed of being dismissed. After completion it be tagged with main case file. Announced.”

6. Whereas, learned Senior Counsel for the petitioner has vehemently argued that rejection of the application by the learned Rent Controller is not sustainable in the eyes of law, on the other hand, learned Senior Counsel for the respondent has defended the order by submitting that there was no perversity therein so as to invite interjection or interference by this Court under Article 227 of the Constitution of India.

7. I have heard learned Counsel for the parties and have also carefully gone through the record of the case.

8. A perusal of the Order passed by the learned Trial Court demonstrates that it dismissed the application by holding that the Interrogatories sought to be served did not appear to have reasonable close connection with the matter and the facts and circumstances of the case do not warrant grant of prayer of applicant qua the Interrogatories for a fair trial. Learned Rent Controller held that it was for the petitioner to prove the grounds taken in the rent petition and as the respondent in the eviction petition had denied the relationship of tenant and landlord, therefore, it was also primarily for the rent petitioner to prove

necessary facts with regard to the said issue. Learned Rent Controller further held that Interrogatory No.1 was a question of fact and certified copy of the order could be tendered on record by the respondent, if so required. With regard to the second question, learned Rent Controller held that the second question did not seem to have any direct connection with the case at hand, yet the respondent was at liberty to demonstrate the same. With regard to the third and fourth Interrogatories, it held that the same were questions of fact asserted by the respondent and as a party asserting a fact was obliged to prove the same, therefore, it was for the respondent to prove the third and fourth Interrogatories as to whether the petitioner was aware of the Partnership Deed or not.

9. Rules 1 and 2 of Order XI of the Civil Procedure Code *inter alia* provide that in any suit the plaintiff or defendant while leave of the Court may deliver Interrogatories in writing for the examination of the opposite party or anyone or more of such party and such Interrogatories when delivered shall have a Note at the foot thereof stating which of such Interrogatories each of such person is required to answer.

10. Second proviso to Rule-1 provides that Interrogatories which do not relate to any matter in question in the suit shall be deemed irrelevant notwithstanding that they might be admissible on

the oral cross-examination of a business.

11. The main proceedings stood initiated under Section 14 of the Himachal Pradesh Urban Rent Control Act, wherein the petitioner therein sought the eviction of the respondent therein, i.e. the present petitioner, on the ground of non-payment of rent as also bonafide requirement etc. The defence taken by the respondent therein is that there is no relationship of landlord and tenant between the parties and that the rent petitioner is not the owner or the landlord of the premises in issue. It is also the stand of the present petitioner in the reply that the exclusive title, ownership and entitlement of receiving rent of the petitioner is under challenge by other co-owners/co-sharers of the premises in a Civil Suit, i.e. Civil Suit No.52 of 2007, which is pending in the High Court and ad interim injunction is operating in it. It is also mentioned therein that an application has been filed in the said suit to implead the rent petitioner as a defendant in place of her mother, namely, Smt. Anshu.

12. In this backdrop, if one peruses the Interrogatories which were appended with the application, the first Interrogatory was whether an Order dated 24.06.2009 was passed by the High Court in Civil Suit No.52 of 2007 and the second Interrogatory was that whether the petitioner was obeying the said Order in letter and

2025:HHC:40718

spirit. This Court is of the considered view that when it was the stand of the rent petitioner that he was not a party of the Civil Suit, obviously, these Interrogatories could not have been put to him because in the absence of him being a party in the Civil Suit he was not oblige to answer Interrogatories with regard to an order passed in that suit and whether he was obeying the said order or not.

13. With regard to Interrogatories 3 and 4 as to whether any rent was received by Smt. Kaushalya for the premises in question after the filing of the Civil Suit from the respondent in the eviction proceedings or any partner or whether the petitioner was aware of the Partnership Deeds mentioned therein, obviously as this was the defence of the respondent therein, it was for the respondent to prove the same and it was not for the rent petitioner to assist the cause of the respondent by answering the Interrogatories. In this backdrop, learned Rent Controller rightly rejected the Interrogatories by assigning reason with which this Court fully concurs.

14. Accordingly, in light of the above observations, as this Court does not finds any merit in the present petition, the same is dismissed. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 28, 2025
(Rishi)