

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CR No. 39 of 2025****Date of Decision : 07.05.2026**

Jeet Kaur through LRs

Petitioners

Versus

Rajesh Kumar Walia

Respondent

*Coram:***The Hon'ble Mr. Justice Romesh Verma. Judge.***Whether approved for reporting?¹*For the petitioners : Mr. Vivek Thakur, Advocate
vice Mr. Sanjeev Sood,
Advocate,

For the respondent : Mr. Janesh Gupta, Advocate..

Romesh Verma, Judge(oral)

The present petition arises out of the judgment as passed by the learned Appellate Authority-II, Kangra at Dharamshala, District Kangra, H.P. dated 15.06.2024, whereby the appeal filed by the tenant/respondent has been allowed and the judgment as passed by the learned Rent Controller (1), Kangra, District Kangra, H.P. dated 31.12.2019 has been set-aside and modified qua calculation of arrears of rent.

2. The brief facts of the case are that the petitioner /land lady filed the eviction petition under

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

Section 14 of the H.P. Urban Rent Control Act, 1987 in the Court of learned Rent Controller (1), Kangra, District Kangra, H.P. on 19.07.2008.

3. The petition was filed by the landlady on the ground that she, being land-lady of non-residential premises i.e Kuttons M/s Life Style, Ward No.9, Dharamshala Road, Tehsil Chowk Mauza Ujjain, Tehsil and District Kangra, H.P. having area measuring 30 feetx 30 feet, bounded as, backside the land of landlady, one side shop owned by the landlady under the tenancy of Pardeep Kumar Luxmi Sweet Shop, other side vacant area and on the front National Highway, sought eviction of the respondent on various grounds in respect of premises.

4. As per landlady respondent was inducted as a tenant on monthly rent of Rs. 9,000/-with increase of 2% after every two years. Initially, the land lady sought eviction of the respondent on the ground of bonafide requirement for personal use and occupation and alleged damage to the demised premises thereby materially impairing its value and utility. However, during the pendency of the petition, the petitioner/landlady did not press for eviction of the respondent on those grounds. The petition was pressed only on the ground of non-payment of rent.

5. The eviction petition was contested by the respondent-tenant by raising various grounds, and all the averments as raised in the eviction petition were refuted and denied.

6. The learned trial Court framed the issues in the following manner:

1. Whether respondent has not paid arrears of rent amounting to 1,20,074.40 alongwith interest at the rate of 9% per annum, as alleged, if so, its effect ?OPP

2. Whether respondent has violated the agreement of tenancy, if so, its effect, as prayed for ?OPP

2A. Whether the respondent has damaged the tenanted premises and thereby materially impaired the value and utility thereof, as alleged ? OPP

3. Whether premises in question is bonafide required by the petitioner for carrying out the business, if so, its effect ?OPP

4. Whether premises is required by the petitioner for bonafide personal use, if so, its effect ?OPP

5. Whether respondent is liable to be ejected from the premises in question, as alleged ?OPP

6. Whether petition is not maintainable, as prayed for? OPR

7. Relief?

7. The case was contested between the parties only on issues No. 1,5 and 6. The learned Rent Controller vide its judgment dated 31.12.2019, allowed the eviction petition filed by the landlady against the present respondent/tenant by ordering to evict the respondent from the suit property on account of failure to tender the rent due to the landlady w.e.f 09.05.2007 till the date of the judgment passed by the learned Rent Controller. It was ordered that the respondent-tenant shall not be evicted from the demised premises as a result of the order, if he pays within 30 days of the rent due w.e.f May, 2007 to December,2019 alongwith statutory interest, total amounting to Rs.22,68,890.20/-(Rupees twenty two lakhs sixty eight thousand eight hundred ninety and twenty paise only) i.e Rs. 16,99,199/- as principal and interest @ 9% P.A till February, 2012 and @ 12% p.a. w.e.f March, 2012 till December, 2019, total amounting to Rs.5,69,691,20/-

8. Feeling dissatisfied by the judgment of eviction as passed by the learned Rent Controller(1) Kangra, District Kangra, H.P. dated 31.12.2019, tenant-respondent preferred an appeal in the Court of learned

First Appellate Authority-II, Kangra at Dharamshala, District Kangra, H.P. on 19.07.2008 The First appellate Court vide judgment dated 31.12.2019 partly accepted the appeal as preferred by the tenant-respondent and modified the judgment as passed by the learned Rent Controller(1), Kangra, District Kangra, H.P. to the extent that the learned Rent Controller has erred in calculating the arrears of rent which is excessive and against law. The excess amount so deposited by the petitioner in the case before the learned trial Court, which has been withdrawn by the respondent/landlady, shall be adjusted in future rent due from the appellant to the respondent/landlady w.e.f January, 2020 alongwith interest at the rate of 6% in the litigation pending between the parties.

9. Feeling aggrieved with impugned judgment passed by the First Appellate Authority, landlady/petitioner has approached this Court by filing the instant petition under Section 24(5) of the H.P. Urban Rent Control Act, 1987.

10. It is vehemently contended by Mr. Vivek Thakur, learned counsel for the petitioners that the impugned judgment as passed by the learned First Appellate Authority is erroneous and liable to be quashed and set-aside. He submits that the First Appellate Court

has not appreciated the point in controversy and has wrongly modified the order as passed by the learned Rent Controller (1), Kangra, District Kangra, H.P. He submits that the judgment as passed by the learned Rent Controller is legal, valid and sustainable and the same ought not to have been disturbed by the learned First Appellate Authority.

11. On the other hand, Mr. Janesh Gupta, learned counsel for the respondent has defended the impugned judgment passed by the learned Appellate Authority . He has taken preliminary objections qua the maintainability of the present petition and he submits that in view of the concession which has been given by the petitioner/counsel before the learned First Appellate Authority, especially in para 22 and 23 of the impugned judgment, the present petition cannot be heard on merits.

12. I have heard the learned counsel for the parties and have gone through the record of the case file carefully.

13. The landlady/petitioner preferred an eviction petition on various grounds before the learned Rent Controller, (1), Kangra, District Kangra, H.P. for eviction of the present respondent. The grounds for eviction on account of bonafide requirement for personal use and

occupation and damage to the tenanted premises and thereby materially impaired the value and utility were not pressed by the landlady before the learned Rent Controller(1), Kangra. Thereafter the findings were returned by the learned Rent Controller with respect to the payment of arrears of rent alongwith interest only.

14. After hearing the respective parties and on the basis of the material placed on record, the learned Rent Controller allowed the rent petition and eviction was ordered on the ground of arrears of rent, with a rider that the tenant shall not be evicted from the demised premises within a period of 30 days if he deposits a sum of Rs. 22,68,890.20/- before the learned Rent Controller-I, Kangra, District Kangra, H.P.

15. Admittedly, the said amount was deposited by the tenant before the learned First Appellate Authority at the time of filing of the appeal. It is also admitted by the learned counsel for the parties that the said amount was withdrawn by the landlady. The Appellate Authority while adjudicating the appeal and while dealing with the contentions of the tenant has observed as follows:

22, During the course of proceedings counsel for the appellant argued that the actual amount due was 17,97,935/-,

whereas the amount deposited was Rs.22,68,891/-.

23.The learned counsel for the respondent has fairly conceded that excess amount so deposited by the appellant before the learned Rent Controller has been withdrawn by the respondent/landlord in January, 2020 and litigation for future rent amount is pending, as such the excess amount withdrawn shall be adjusted in rent due from the appellant to the respondent/landlord w.e.f. January, 2020.

24.Counsel for the respondent has also conceded at bar that the respondent/landlord shall adjust the balance amount withdrawn by the respondent alongwith interest at the rate of 6% in the pending litigation regarding arrear of rent pending between the parties. Hence, the judgment/order passed by learned trial Court is liable to be modified as amount calculated is not in accordance with law. Therefore, this point is decided in favour of appellant and is answered as such.

16. Based upon the concession as made by the present petitioners/ learned counsel for the petitioners where-by it was fairly conceded that excess amount

deposited by the tenant before the learned Rent Controller has been withdrawn by the landlady and litigation for future rent amount is pending, as such, the excess amount withdrawn shall be adjusted in rent due from the tenant. Further that the landlady has conceded that she shall adjust the balance amount withdrawn by her alongwith interest@ 6% alongwith pending litigation regarding arrears of rent.

17. The First Appellate Court has rightly passed the impugned order on the basis of the said concession made by the landlady/ counsel. The ground of petition reveals that it is not the case of the present petitioners that they are aggrieved by the concession as made by the landlady/counsel before the First Appellate Court. The submission which has been made before this Court is with respect to the calculation. The learned counsel for the petitioners could not satisfy this Court that how the present petitioners are aggrieved by the impugned order in the light of the concession as made by the landlady/counsel before the learned First Appellate Authority. The only order/judgment which could have been passed by the Appellate Authority was to modify the judgment passed by the learned Rent Controller on the basis of the concession as made by the landlady. This

Court is of the opinion that there is no error, infirmity or illegality in the impugned judgment passed by the learned First Appellate Court and there is no jurisdictional error in the same.

18. Consequently, the present petition being devoid of any merit, deserves to be dismissed and is accordingly dismissed.

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

**(Romesh Verma),
Judge**

07.05.2026 (veena)