



IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA

Civil Revision No.109 of 2016  
Reserved on: 20<sup>th</sup> May, 2025  
Date of decision: 2<sup>nd</sup> September, 2025

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Tulsi Ram ...Petitioner

Versus

Mustaq Qureshi ...Respondent

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Coram

*The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.*

*Whether approved for reporting? Yes*

For the Petitioner: Mr. Ashok Sood, Sr. Advocate with Mr.Rajat, Advocate vice Mr. Abhishek Banta, Advocate.

For the Respondent: Mr. Imran Khan, Advocate.

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Vivek Singh Thakur, Judge

Petitioner has filed this Revision Petition under Section 24(5) of Himachal Pradesh Urban Rent Control Act, 1987 (herein-after referred to as 'Rent Act') against the judgment dated 2.4.2016 passed by the Appellate Authority-II, Shimla, District Shimla in **Rent Appeal No.7-S/13(B) of 2015 titled as Tulsi Ram vs. Mushtaq Qureshi**, whereby order dated 25.6.2015 passed by the Rent Controller, Shimla, District Shimla in **Rent Petition No. 198/2 of 2013/2012 titled as Mustaq Qureshi vs. Tulsi Ram** has been affirmed.

2 For convenience petitioner and respondent shall be referred hereinafter according to their status in the Rent Petition, i.e. tenant and landlord respectively

3 I have heard learned counsel for parties at length and have also gone through record.

4 Landlord preferred a petition under Section 14(3)(b)(i) of the Act on the ground of bonafide requirement with submission that elder son of landlord was working in a private firm at Shimla and younger son was about to complete his 12<sup>th</sup> Class from the Senior Secondary School, Sunni who was living with landlord and his wife, and was their only caretaker at old age and in view of ailment of landlord and his wife as well as their old age, landlord intended to settle his younger son as soon as possible by expanding his business of gifts and cosmetics which was being run in a small shop adjoining to the shop occupied by the tenant/respondent, and as the shop was only means of earning of livelihood to landlord and his family and with the changing time, it had become difficult to him to maintain himself from the earning of such a small shop and thus, he wanted to settle down his younger son immediately after completion of his study by expanding his business/shop. As shop in possession of landlord was too small and it was not possible for landlord to expand his business and settle his son without vacating the tenanted shop of tenant, petition was preferred by landlord for eviction of tenant after issuing notice dated 18.1.2012

directing the tenant to vacate the tenanted premises before 31.3.2012 which was not replied by tenant.

5 Eviction petition was resisted by tenant on the ground that landlord was harassing the tenant by one way or other and during night of 26/27<sup>th</sup> July, 2012, for pressurizing the tenant to evict from the premises, a hole was made in the lentil of tenant whereupon tenant had to file civil suit restraining the landlord from such acts and petition for evicting the tenant was also filed to harass the tenant, whereas landlord was estopped from filing the eviction petition due to his own acts, deeds, conduct, omission and commission etc. Tenant had refuted the claim of landlord that rent of premises was Rs.400/- per month plus Municipal Corporation taxes with submission that rent of premises was Rs.660/- per month including taxes, which was being paid by tenant by depositing in the bank account of landlord. The tenant had also contended that the premises was rented out to him in the year 1985 instead of 1.4.2006 and therefore, it was stated that landlord had not approached the Court with clean hands. Further that tenant, a contractual tenant, was paying the rent regularly and thus he could not be forced to be evicted from the premises by landlord. Further that landlord was not in need of premises in reference for expansion of business as he was getting sufficient pension, being a retired person, for his livelihood and he was also having sufficient accommodation with him to expand the business. Tenant had also denied service of notice dated 18.1.2012.

6 Present petition has been preferred on the ground that landlord has failed to establish the bonafide requirement and also to satisfy the proviso of Section 14 (3)(a)(i) of the Act which mandates that in case landlord requires the premises for his own occupation then landlord has to categorically plead and prove that he has not been occupying another residential or non-residential building owned by him in the urban area concerned and further that he has not vacated such a building without sufficient cause within 5 years prior to filing of application for eviction in the said urban area. It has been further submitted that from the evidence led by parties before the Rent Controller, it is apparent that landlord is having option of other shops/premises rented out by him to other persons who are running the business as a Painter as well as office of Public Relations etc. Further that it has also come on record during examination of witnesses on behalf of landlord that within 5 years prior to filing of petition for eviction of tenant, landlord had rented out a shop to someone else. Therefore, it has been contended that petition preferred by landlord was liable to be dismissed but on account of misappreciation, misreading and misconstruction of material on record both Courts below have committed error in law as well as facts.

7 After completion of pleadings, the Rent Controller had framed following issues:-

1. Whether the demises premises/shop is bonafidely required by the petitioner for establishing business for his son, as alleged? OPP
2. Whether the petitioner is neither competent or not maintainable, as alleged? OPR
3. Whether present petition has been filed with malafide intention, as alleged? OPR
4. Whether petitioner is estopped from filing the present petition by his own act and conduct, as alleged? OPR
5. Whether the petitioner has suppressed material facts, as alleged? OPR
6. Relief.

8 After framing the issues, evidence was led by both parties. The landlord including himself examined 4 witnesses, whereas tenant including himself examined 6 witnesses. It was concluded by the Rent Controller that landlord was able to prove the bonafide requirement for expansion of his business for settling his younger son with him and accordingly tenant was directed to hand over the vacant possession of demised premises/shop to the landlord within a period of two months which has been affirmed by the Appellate Authority.

9 Supreme Court in ***Rukmini Amma Saradamma vs. Kallyani Sulochana and others***, reported in (1993) 1 SCC 499, referring its earlier pronouncement in ***Rai Chand Jain vs. Chandra Kanta Khosla***, (1991) 1 SCC 422, with respect to scope of revisional power under Section 20 of Kerala Rent Control Act, which is similar to H.P. Rent

Act, has observed that notwithstanding the fact that Section 20 of the Act conferring revisional jurisdiction of the High Court is widely worded, such a jurisdiction cannot be converted into an appellate jurisdiction.

10 With respect to scope of jurisdiction and revisional jurisdiction and the extent of power which High Court can exercise in a Revision filed under Section 24(5) of the Rent Act, Five Judges' Constitution Bench of Supreme Court in ***Hindustan Petroleum Corporation Limited vs. Dilbahar Singh, (2014) 9 SCC 78***, has observed as under:-

"28. Before we consider the matter further to find out the scope and extent of revisional jurisdiction under the above three Rent Control Acts, a quick observation about the 'appellate jurisdiction' and 'revisional jurisdiction' is necessary. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice-versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is co-extensive with that of the trial court. Ordinarily, appellate jurisdiction involves re-hearing on facts and law but such jurisdiction may be limited by the statute itself that provides for appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of revisional court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the tribunal/appellate authority, the decision of the revisional court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.

29. With the above general observations, we shall now endeavour to determine the extent, scope, ambit and meaning of the terms "legality or

propriety", "regularity, correctness, legality or propriety" and "legality, regularity or propriety" which are used in three Rent Control Acts under consideration.

29.1. The ordinary meaning of the word 'legality' is lawfulness. It refers to strict adherence to law, prescription, or doctrine; the quality of being legal.

29.2. The term 'propriety' means fitness; appropriateness, aptitude; suitability; appropriateness to the circumstances or condition conformity with requirement; rules or principle, rightness, correctness, justness, accuracy.

29.3. The terms 'correctness' and 'propriety' ordinarily convey the same meaning, that is, something which is legal and proper. In its ordinary meaning and substance, 'correctness' is compounded of 'legality' and 'propriety' and that which is legal and proper is 'correct'.

29.4. The expression "regularity" with reference to an order ordinarily relates to the procedure being followed in accord with the principles of natural justice and fair play.

30. We have already noted in the earlier part of the judgment that although there is some difference in the language employed by the three Rent Control Acts under consideration which provide for revisional jurisdiction but, in our view, the revisional power of the High Court under these Acts is substantially similar and broadly such power has the same scope save and except the power to invoke revisional jurisdiction suo motu unless so provided expressly. None of these statutes confers on revisional authority the power as wide as that of appellate court or appellate authority despite such power being wider than that provided in Section 115 of the Code of Civil Procedure. The provision under consideration does not permit the High Court to invoke the revisional jurisdiction as the cloak of an appeal in disguise. Revision does not lie under these provisions to bring the orders of the Trial Court/Rent Controller and Appellate Court/Appellate Authority for re-hearing of the issues raised in the original proceedings.

43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re- appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the

Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

11 Present Revision Petition is to be decided keeping in view the aforesaid exposition of law with respect to scope of revisional jurisdiction of this Court.

12 It is settled law that landlord has a right to put his property for better use and to obtain higher income. He has a right to choose the place for the business which is most suitable to him. He has complete freedom in such matter as he is best judge of his requirement and the Court or tenants have no concern to dictate the landlord as to how and in what manner he should expand his business. It is quite unnecessary for the Court to make an endeavour as to how-else the landlord could have adjusted himself.



13           Plea regarding renting out the premises by landlord within 5 years prior to filing of petition was not taken in reply of tenant and for that reason only, no issue in this regard was ever framed nor any objection against non-framing of such issue was ever raised by tenant. It is also settled that pleadings without evidence as well as evidence without pleading also cannot be used by a party for its advantage. Therefore, plea raised at the time of hearing of present Revision Petition that landlord has failed to establish the mandatory requirement that he has not vacated any premises within 5 years of filing of petition is not sustainable. Even otherwise, requirement is that landlord should not have vacated "such a building". In present case, it has been categorically pleaded by landlord and also stated in evidence that shop/premises rented out to tenant is adjacent to small shop of landlord and therefore, it is most suitable for expansion of his business to settle his son, whereas tenant has failed to establish that any other such shop in similar location is available for landlord or has been vacated or rented out by landlord to someone else and thus, plea in this regard raised on behalf of tenant is also not sustainable.

14           Petition for eviction was filed in the year 2012 and at that time, son of petitioner was 19 years old. Now he has crossed 30 years but till date, the landlord is waiting for eviction of shop to settle his son. Plea of tenant with regard to his harassment by landlord is also irrelevant for considering the claim of landlord about requirement of rented

premises for his bonafide requirement to settle his son and expand the business. Income of pension is also not a perpetual income and after death of landlord, his family members including his younger son shall not be entitled for any pension.

15 In view of above discussion, I am of the considered opinion that no case is made out for interference by exercising revisional jurisdiction to reverse the impugned order and judgment.

16 Accordingly, petition is dismissed with direction to tenant to hand over the vacant possession of premises, in reference, on or before **31<sup>st</sup> October, 2025.**

Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Vivek Singh Thakur),  
Judge.

2<sup>nd</sup> September, 2025(MS)