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2025:HHC:31974

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No.72 of 2018
Reserved on:01.09.2025
Decided on: 17.09.2025

Ashok Kumar ….Petitioner

Versus

Dulari Kapil & another ...Respondents

Coram
Hon'ble Mr. Justice Satyen Vaidya, Judge
Whether approved for reporting? Yes

For the petitioner: Mr. Deepak Gupta, Advocate.

For the respondents: Mr. Ashwani K. Sharma, Senior Advocate with Mr. Ishan Sharma, Advocate, for respondent No.1.

Satyen Vaidya, Judge

This Revision Petition has been filed under Section 24(5) of the Himachal Urban Rent Control Act, 1987 (for short, "the Act') to assail the order dated 28.02.2018, passed by the Appellate Authority, Hamirpur in Rent Appeal No.1 of 2015, whereby the eviction order dated 22.12.2014 passed by learned Rent Controller, Hamirpur in Rent Petition No.4 of 2009 has been affirmed and upheld.

2. Respondent No.1 herein (hereinafter referred to as "landlord") had filed a petition for eviction against respondent No.2 herein from the demised premises i.e. Shop No.171 Ward

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No.8, Gandhi Nagar, Hamirpur (for short, “demised premises”) on the following grounds:

(a) That the demised premises was required by the landlord for personal bonafide use; and

(b) That the tenant had sublet the premises to the subtenant.

3. The petitioner herein was also impleaded as party respondent in the capacity of subtenant.

4. For convenience the parties hereafter shall be referred to by the same status in which they were impleaded in the eviction petition.

5. Learned Rent Controller has allowed the petition only on the ground of subletting and the order of learned Rent Controller has also been affirmed by learned appellate authority.

6. The landlord had not assailed the order passed by learned Rent Controller insofar as the ground of personal bonafide requirement was rejected. Thus, since the parties are litigating only on the issue of subletting, I do not find it necessary to deal with the factual and legal aspect of the matter relating to the ground of personal bonafide requirement. The discussion hereafter will, therefore, confine only to the aspects relating to the ground of subletting.

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7. The landlord had averred that the demised premises had been sublet by the tenant to sub-tenant as the tenant had settled in Canada and the demised premises was in exclusive occupation of sub-tenant. The landlord had further claimed to have purchased the demises premises from previous owner Shri Dev Raj. As per the landlord, the shop had originally been let out to the tenant by Shri Dev Raj (previous owner) on monthly rent with the condition that the tenant would not sublet or create partnership in the demised premises.

8. The tenant filed the reply and denied the allegation of having sublet the demised premises to the subtenant. It was claimed that the subtenant was a tenant of the owner of the premises. Except for submission of reply, the tenant had not contested the petition effectively.

9. The subtenant also filed his separate reply. He claimed to be in occupation of demised premises as tenant of the predecessor-in-interest of landlord. It was submitted that the subtenant had been paying rent to previous owner of the demised premises. The allegation of subletting was clearly denied. It was stated that the subtenant was the tenant under previous owner Shri Dev Raj and thereafter under the landlord.

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10. The landlord, besides examining herself as witness, had examined a witness from the office of SDO (Phones) BSNL, Hamirpur, who had deposed that telephone No.224431 had been installed in the name of Bagga and Company since 31.08.1982. Another witness was examined from the office of AETC Hamirpur, according to whom, the Bagga and Company was a partnership of Smt. Krishna Devi and Kuldeep Kumar till 1985 and thereafter the registration was in the name of Kuldeep Kumar (tenant). There was no registration in the name of Ashok Kumar (subtenant). Similarly Shop Inspector, Hamirpur was also examined as a witness to prove that the name of sub-tenant did not figure in the records of Shop Inspector in respect to the demised premises. Independent witnesses Pankaj Kumar and Sulekh Chand were also examined by the landlord to prove her case.

11. One Dinesh Soni, s/o Dev Raj (previous owner of the demised premises) was examined as witness by the landlord in order to establish that the sub-tenant had not been inducted as a tenant by the previous owner i.e. Dev Raj.

12. On the other hand, the sub-tenant also led evidence by examining himself and other witnesses to disprove the case of the landlord.

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13. Learned Rent Controller after appreciating the evidence came to the conclusion that the tenant had sublet the premises to sub-tenant. It was held that the landlord had been able to discharge the initial onus of proving the subletting, but the tenant and subtenant had failed to prove that the sub-tenant was in occupation of the demised premises in his own right as a tenant.

14. Learned Appellate Authority on re-appreciation of evidence has affirmed the findings of fact returned by the learned Rent Controller.

15 I have heard learned counsel for the parties and have also gone through the record carefully.

16. At the outset, learned Senior Advocate representing the landlord raised an objection as to the maintainability of revision petition by a sub-tenant. He would contend that the revision petition under Section 24(5) of the Act could be filed by an aggrieved party and since the tenant had accepted the verdict, sub-tenant could not be considered as an aggrieved party. He placed reliance on the judgment passed by learned Single Judge of Delhi High Court in ***Subhash Chand Aggarwal*** vs. ***Murli Manohar Lal,*** reported in ***2000 (1) RCR 645*** to assert that the eviction order against the tenant will bind the sub-tenant also.

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17. On the other hand, learned counsel for the sub-tenant placed reliance on the judgment passed by Hon'ble Supreme Court *in* **Karam Singh Sobti and another** vs. **Sri Pratap Chand and another, AIR 1964 SC 1305** to defend the action.

18. The landlord had filed the eviction petition by impleading tenant and sub-tenant as party respondents. Subtenant filed the statutory appeal under Section 24 of the Act and at that stage the landlord does not appear to have taken such an objection. In *Karam Singh Sobti (supra),* Hon'ble Supreme Court has held as under:

> *"23. The next question is as to the rights of the appellant in the absence of an appeal by the Association from the decision of the trial Court. This question does not present any real difficulty. The suit bad been filed both against the tenant and the sub-tenant, being respectively the Asso-ciation and the appellant. One decree had been passed by the trial judge against both. The appellant had his own right to appeal from that decree. That right could not be affected by the Association's decision not to file an appeal. There was one decree and, therefore, the appellant was entitled to have it set aside even though thereby the Association would also be freed from the decree. He could say that decree was wrong and should be set aside as it was passed on the*

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> *erroneous finding that the respondent had not acquiesced in the sub-letting by the Association to him. He could challenge that decree on any ground available. The lower appellate Court was, therefore, quite competent in the appeal by the appellant from the joint decree in ejectment against him and the Association, to give him whatever relief he was found entitled to, even though the Association had filed no appeal."*

19. No doubt, a sub-tenant is not a necessary party to a petition for eviction on the ground of subletting. The eviction order against the tenant binds even the subtenant, but since in the instant case the landlord herself had impleaded sub-tenant as a party, keeping in view the exposition of law in *Karam Singh Sobti (supra),* it cannot be said that the subtenant is not the aggrieved party. Thus, the objection raised on behalf of the landlord cannot be sustained.

20. It is more than settled that this Court, while exercising revisional jurisdiction under the Act, will not sit as a Court of appeal. The findings of fact recorded concurrently by the original and appellate Court cannot be normally interfered with except in case where perversity or absolute illegality is found to have been committed. Similarly, reappraisal of evidence in revisional jurisdiction is not permissible. The revisional Court also

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cannot substitute its view for the view taken by the original and appellate Court if the same is found to be a possible one.

21. **In *Hindustan Petroleum Corporation Limited*** vs ***Dilbahar Singh, (*2014) 9 SCC 78, Hon'ble Supreme Court has held as follows:**

> *"31. We are in full agreement with the view expressed in Sri Raja Lakshmi Dyeing Works that where both expressions "appeal" and "revision" are employed in a statute, obviously, the expression "revision" is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression "appeal". The use of two expressions "appeal" and "revision" when used in one statute conferring appellate power and revisional power, we think, is not without purpose and significance. Ordinarily, appellate jurisdiction involves a re-hearing while it is not so in the case of revisional jurisdiction when the same statute provides the remedy by way of an 'appeal' and so also of a 'revision'. If that were so, the revisional power would become co-extensive with that of the trial Court or the subordinate Tribunal which is never the case. The classic statement in Dattonpant that revisional power under the Rent Control Act may not be as narrow as the revisional power under Section 115 of the Code but, at the same time, it is not wide enough to make the High Court a second Court of first appeal, commends to us and we approve the*

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same. We are of the view that in the garb of revisional jurisdiction under the above three Rent Control Statutes, the High Court is not conferred a status of second Court of first appeal and the High Court should not enlarge the scope of revisional jurisdiction to that extent."

22. Similarly in **Patel Valmik Himatlal and others vs. Patel Mohanlal Muljibhai (dead) through LRs., AIR 1998 SC 3325**, Hon'ble Supreme Court has expounded the legal principles as under:

"6. The powers under section 29(2) are revisional powers with which the High Court is clothed. It empowers the High Court to correct errors which may make the decision contrary to law and which errors go to the root of the decision but it does not vest the High Court with the power to re-hear the matter and re-appreciate the evidence. The mere fact that a different view is possible on re-appreciation of evidence cannot be a ground for exercise of the revisional jurisdiction.

7. In the instant case we find that the High court fell into an error in re-appraising the entire evidence and recording a finding on the basis of that re-appreciation without in any way pointing out any error of law or material irregularity as may have been committed by the trial court or the first appellate court. In our opinion even the appreciation of evidence by the High Court was not correct. Certain facts were assumed by the

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High Court which were not on record and generalisation was made without any basis. In this connection a reference to paragraph 12 of the order of the High Court would be relevant. it reads:-

> *"12. This would clearly meant that starting of the said Branch office was clearly recorded in form of a Commission Agency Agreement in Exh. 78, another copy of which is at Exh. 110, and that was done openly and publicly inviting particularly the business community to attend the function. If the idea was to sublet the premises, a tenant would hardly be expected to advertise the fact in this manner."*

8. The question whether or not the premises had been sublet could not be decided on the basis whether a tenant generally is "expected to advertise the fact in this manner". The findings recorded by both the trial court and the first appellate court based on a critical appreciation of the terms of the agreement Exh. 78 and the evidence led by the parties on the record suffered from no error or material irregularity. Both the courts had rightly come to the conclusion that the tenant had in fact sublet the suit premises and parted with the possession of the premises without consent of the landlord. There was no error committed by the courts below which required any correction at the hands of the High Court in exercise of its revisional jurisdiction. The

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judgment of the High Court, under the circumstances, cannot be sustained.

23. Learned counsel for the sub-tenant has not been able to point out any perversity or absolute illegality in the findings recorded by the original and appellate Court. Much stress, though, was laid on the alleged admission made by the son of previous owner Sh. Dev Raj while appearing as the witness of landlord, whereby he had admitted the signatures of his father on the receipts of rent allegedly issued in favour of sub-tenant for the period before the purchase of said premises by the landlord. The defence so raised by the subtenant has already been considered and disbelieved by the learned Rent Controller on sound reasons. Learned Rent Controller had found that the originals of the receipts were not produced; the similarity of dates on the alleged receipts, though, for different years, was taken as a suspicious circumstance and further mere proof of signatures without proof of the contents of the document was another reason that weighed with learned Rent Controller in not placing reliance on the alleged rent receipt. I do not find any illegality in the view formed by learned Rent Controller and thus, there is no need to interfere in the said findings.

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24. Learned counsel for the sub-tenant further asserted that the eviction petition itself was not maintainable for want of jurisdictional facts having been pleaded. He contended that the landlord had to specifically plead and prove that the tenant had transferred his rights under the lease or sublet the demised premises after the commencement of the Act without written consent of the landlord. He pointed out the relevant portion of the eviction petition in which such pleadings were missing. Reliance was placed on the judgment passed by this Court in **Sham Sunder Mehra** vs. **Mastan Singh and others, 1994 (2) RLR 9**, in which it was held that the pleading of subletting in terms of requirement of Act was mandatory.

25. No doubt, the landlord had not specifically pleaded that the sub tenancy had been created after commencement of the Act and the same was without written consent of the landlord. The relevant part of Section 14 of the Act reads as under:

> *"14 **Eviction of tenants.***
>
> *(ii) that the tenant has after the commencement of this Act without the written consent of the landlord*
>
> *(a) transferred his rights under the lease or sublet the entire building or rented land or any portion thereof."*

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26. Noticeably, what has been averred in the eviction petition is that the premises had been sublet by the tenant to sub-tenant, who had settled in Canada and it was the sub-tenant only who was in occupation of the premises. It was also part of the pleadings of landlord that she had purchased the demised premises from the previous owner Dev Raj.

27. In the replies filed by the tenant and sub-tenant, no objection as to insufficiency of pleadings was taken. The subtenant had not denied the fact that the landlord had purchased the demised premises from previous owner Dev Raj, rather his case was that he had been inducted as a tenant by Dev Raj. The eviction petition was filed in the year 2009, whereas the Act was in promulgation since 1971. Though, the subtenant had not specifically pleaded as to when he was inducted as tenant by Dev Raj. However, in evidence it was tried to be established that the year of such induction was 2001.

28. The grounds of appeal taken by the subtenant before the appellate Court also does not reveal any specific objection taken as to lack of or insufficiency of pleadings. Moreover, the subtenant has not shown any prejudice to have been caused to him by the lack of the pleadings.

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29. A conjoint reading of the averments made in the eviction petition conveys that the landlord wanted the eviction of tenant on ground of subletting. A specific issue was also framed. In this background, the tenant cannot validly challenge the order of eviction on mere technical ground, though, in Sham Sunder Mehra (supra), the making of necessary pleadings has been held to be mandatory. In **Virendra Kashinath Ravat and another vs. Vinayak N. Joshi and others, AIR 1999 SC 162**, Hon'ble Supreme Court has held as under:

> *"15. Learned Single Judge treated the aforesaid pleading as insufficient to make out a case for subletting. This was not a point considered by or even raised before the two fact finding forums. Order 6 Rule 5 of the Code of Civil Procedure (For short 'the Code') confers powers on the Court to order a party to make a further statement or even a better statement or further and better particulars of any matter already mentioned in the pleading. This is incorporated in the Code to indicate that no suit shall be dismissed merely on the ground that more particulars are not stated in the pleadings. If the contesting respondents, or any of them had raised objection that the pleading was scanty perhaps appellants would have further elaborated it as provided in Rule 5 above. At any rate this should not have*

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been a premise on which interference by the High Court Should have been made in exercising a jurisdiction of superintendence under Article 227 of the Constitution.

16. That apart, the averment extracted above cannot by any standard be dubbed as bereft of sufficiency in pleading. Under Order 6 Rule 2(1) of the Code the requirement is the following:

> *"Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.*

17. The object of the Rule is two-fold. First is to afford the other said intimation regarding the particular facts of his case so that they may be met by the other side. Second is to enable the court to determine what is really the issue between the parties. The words in the sub-rule "a statement in a concise form" are definitely suggestive that brevity should be adhered to while drafting pleadings. Of course brevity should not be at the cost of setting out necessary facts, but it does not mean niggling in the pleadings. If care is taken in the syntactic process, pleadings can be saved from tautology. Elaboration of facts in pleadings is not the ideal measure and that is why the sub-rule embodied the words "and contain only" just before the succeeding words "a statement in a concise form of the material facts".

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30. Noticeably, the subtenant had claimed himself to be a tenant, which plea has been held to be not proved by both the Courts. This Court has not found any perversity in the findings of fact recorded by the original and appellate Court. Therefore, in light of what has been held in *Subhash Chand Aggarwal (supra)* since the sub-tenant had failed to establish his tenancy directly under the landlord, the eviction against the tenant will bind him.

31. Further, as held by Hon'ble Supreme Court in Virendra Kashinath Ravat (supra) insufficiency of pleadings is not always a ground to dismiss the claim.

32. In light of above discussion, I do not find any material to interfere with the impugned order. Accordingly, the same is affirmed. Revision petition is dismissed with no orders as to costs.

33. Records be sent back forthwith.

(Satyen Vaidya)
Judge

September 17, 2025
(vt)