IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 292 of 2026
Date of Decision: 24.09.2026

Bhupinder Singh ...Petitioner.

Versus

Gurdev Singh ...Respondent.

Coram
Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1] Yes

For the petitioner: Mr. N.K. Thakur, Senior Advocate with Mr. Divya Raj Singh, Advocate.

For the respondent: Mr. Sunny Modgil, Advocate.

Romesh Verma, Judge (oral)

The present petition arises out of the order dated 02.03.2026, passed by the learned Civil Judge, Court No. II, Amb, District Una, H.P., whereby an application filed by the petitioner/defendant under the provisions of Order VII Rule 11 of the Code of Civil Procedure (CPC) for rejection of the plaint/eviction petition filed by the respondent/plaintiff was dismissed.

2. The facts as emerge in the present case are that the respondent/plaintiff filed a suit for ejectment of the present petitioner from the shop premises situated over land comprising Khasra No. 1512/1, Khewat No. 222 min, Khatauni No. 312 min,

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

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entered in Mohal Jamabandi for the year 2012–2013, situated in Village Hiranagar, Amb, Tehsil Amb, District Una, H.P., and for recovery of Rs. 20,000/- per month with effect from 10th August, 2019 onward till the date of ejectment of the defendant and handing over the vacant possession of the shop premises on account of illegal use and occupation.

3. As per the case set up by the plaintiff/respondent, he is the owner of the shop marked by letters A, B, C, D as shown in red colour in the site plan situated over Khasra No. 1512/1, Khewat No. 222 min, Khatauni No. 312 min, situated in Village Hiranagar, Amb, Tehsil Amb, District Una, HP. It is further the case set up by the plaintiff/respondent that the defendant is in possession of the said shop under the plaintiff as a tenant on rental basis of Rs. 6,000/- per month since 1st July, 2018. An agreement of rent was executed inter se the parties on 18th June, 2018 at Amb, Tehsil & District Una, in the presence of witnesses, duly signed by the defendant and the plaintiff, and attested by Notary Public Shri Sanjeev Dhiman. It was further pleaded that the son of the plaintiff recently completed his 10+2 examination and the plaintiff has to settle his son in the aforesaid shop premises for his business in order to earn his

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livelihood. Due to this reason, the plaintiff does not want to keep the defendant as a tenant in future in the aforesaid shop premises. The plaintiff issued a legal notice on 7th May, 2019 under Section 106 of the Transfer of Property Act for termination of tenancy, with further request to the defendant to vacate the shop in dispute within three months from the date of receipt of the notice. Therefore, prayer was made in the plaint that a decree for possession by way of ejectment from the shop premises denoted by letters A, B, C, D, as shown in red colour in the site plan situated over part of Khasra No. 1512/1, and a decree for recovery of Rs. 20,000/- per month with effect from 10th August, 2019 onwards till the date of ejectment and handing over of vacant possession on account of illegal use and occupation, be passed in favour of the plaintiff.

4. Though the present petitioner has placed on record the copy of the written statement alleged to have been filed by him, however, it has been vehemently submitted by the learned counsel for the respondent that the said written statement is not part of the record. Even an application filed by the defendant under Section 148 of the CPC for enlargement of time for filing the written statement came to be rejected.

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5. Thereafter, the defendant filed an application under Order VII Rule 11 of the CPC in the Court of the learned Civil Judge, Court No. II, Amb, District Una, for rejection of the plaint. In the application, it was contended by the applicant/petitioner that the Government of Himachal Pradesh declared the entire area of Village Amb and Panchayat Sabha, Amb as Nagar Panchayat, Amb, District Una, in the year 2021. As such, no suit shall lie against the applicant/defendant in view of the bar under the Himachal Pradesh Urban Rent Control Act, 1987, as any decree passed after the notification and declaration as Nagar Panchayat by the State Government cannot be executed.

6. The said application came to be resisted by the respondent/plaintiff. All the averments made in the application were denied, and it was stated that the suit was filed in the year 2019, before the declaration of the area as Nagar Panchayat Amb. Therefore, the application under Order VII Rule 11 CPC was not maintainable.

7. The learned Trial Court, vide its impugned order dated 2nd March, 2026, dismissed the application filed by the defendant/petitioner under Order VII Rule 11 CPC.

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8. Feeling aggrieved, the defendant has approached this Court invoking the provisions of Article 227 of the Constitution of India.

9. It is contended by Mr. N.K.Thakur, learned Senior Counsel, assisted by Mr. Divya Raj Singh, Advocate for the petitioner that the impugned order passed by the learned Trial Court is erroneous and liable to be quashed and set aside. He submits that by virtue of the provisions of the H.P. Urban Rent Control Act, the suit as filed by the respondent/plaintiff is not maintainable, therefore, the application filed by the defendant/petitioner for rejection of the plaint deserves to be allowed.

10. On the other hand, Mr. Sunny Modgil, learned counsel for the respondent, defended the impugned order and submits that this Court will not exercise its jurisdiction to interfere with a well-reasoned order passed by the learned Trial Court. He submits that since the suit was filed in the year 2019, which is prior to the constitution/framing of Nagar Panchayat Amb, District Una, the application was rightly rejected.

11. I have heard the learned counsel for the parties and gone through the case file.

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12. At the outset, it would be noticed that a suit filed before the Civil Court prior to the applicability of the Rent Act has to be decided by the Civil Court. A decree passed by the Civil Court is valid and executable, which is not interdicted by the applicability of the Act to the area in question. The Act is applicable to the area in question from the date the notification came into force, and it does not bar the decree of the Civil Court or the pendency of such a civil suit. Further, one of the principles is that the rights of the parties have to be determined on the date when the lis commences, i.e., on the date of filing of the suit. The plaintiff is entitled to a decree on that day when he initiated the proceedings, therefore, right of the parties have to be examined as on the said date.

13. It would further be noticed that the rights of the parties stand crystallized on the date of the institution of the suit and, therefore, the law applicable on the date of filing of the suit will continue to apply until the suit is disposed of or taken to its logical conclusion. If during the pendency of the suit, the Rent Act becomes applicable to the premises in question, that would be of no consequence and it would not take away the jurisdiction of the Civil Court to dispose of the suit validly instituted. In order

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to oust the jurisdiction of the Civil Court, there must be a specific provision in the Act taking away the jurisdiction of the Civil Court in respect of those cases also which were validly instituted before the date when the protection of the Rent Act became available in respect of the said area/premises in the present suit.

14. The issue is no more *res integra* in view of the exposition of law as laid down by the Hon'ble Supreme Court ***in Civil Appeal No. 2816 of 2022***, titled ***Shankarlal Nadani vs. Sohanlal Jain***, decided on 12th April, 2022, wherein it was held as under:-

> *27. Mr. Sankaranarayanan has also referred to the judgment of this Court reported as Subhash Chander & Ors. v. Bharat Petroleum Corporation Ltd. (BPCL) & Anr.20 wherein the landlord had filed a civil suit for possession though the premises was situated in the urban area governed by the Haryana Rent Act. It has been held that such civil suit is not maintainable as the remedy lies under the Haryana Rent Act. This Court held as under:*
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> > *"25. In the given circumstances, we are of the considered view that no error was committed by the High Court in arriving to a conclusion that even after the expiry of the lease term of the lease deed, the respondents became a statutory tenant and jurisdiction of the Civil Court is impliedly barred and could be evicted only under the provisions of the Act 1973."*
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> *28. Under the Act in question, Section 18 does not talk about the validity of any decree of the civil court but only restricts the jurisdiction of the civil court from the date the Act became applicable. The Act has come into force in respect of the premises in question on 11.5.2015 i.e., after the civil suit was filed, therefore, the decree could validly be passed and executed. After the applicability of the Act to the area in question, the landlord and tenant dispute can be raised only before the Rent Tribunal but not before the civil court. However, a suit filed before the civil court prior to the applicability of the Act has to be decided by the civil court. A decree passed by the civil court is valid and executable which is not interdicted by the applicability of the Act to the area in question. The Act is applicable to the area in question from the*

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> *date the notification came into force and it does not bar the decree of the civil court or the pendency of such civil suit.*
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> *29. Still further, one of the principles is that the rights of the parties have to be determined on the date when lis commences i.e., on the date of filing of the suit. The plaintiff is entitled to decree on that day when he initiated the proceedings, therefore, rights of the parties have to be examined as on the said day. Recently, this Bench in a judgment reported as ECGC Limited v. Mokul Shriram EPC JV21 was examining the question as to whether the condition of deposit while filing appeal under the Consumer Protection Act, 2019 would be applicable or the provisions as it existed under the Consumer Protection Act, 1986 when the complaint was filed would be applicable. This Bench considering 21 2022 SCC OnLine SC 184 the Constitution Bench judgments in Garikapati Veeraya v. N. Subbiah Choudhry & Ors.22, Vitthalbhai Naranbhai Patel v. Commissioner of Sales Tax, M.P., Nagpur23 and Hardeodas Jagannath v. The State of Assam24 held that the provisions of the Consumer Protection Act, 2019 would not be applicable to the complaints filed prior to the commencement of the 2019 Act. Therefore, the Judgement and Decree passed in the suit for possession does not suffer from any illegality.*

15. The said exposition of law has further been reiterated by a Coordinate Bench of this Court in ***CMPMO No. 30 of 2023***, titled ***Piyush Mehta v. Vikas Babu & another***, decided on 20th April, 2023. After relying upon the aforesaid judgments, it has been held that a careful perusal of the provisions of the H.P. Urban Rent Control Act, 1987 demonstrates that there is no provision therein which expressly or impliedly excludes the jurisdiction of the Civil Courts with regard to those civil suits which stood validly instituted before the 1987 Act was made applicable to the premises in question. The relevant extract of the said judgment reads as follows:

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> *"8. Hon'ble Supreme Court of India in Rajender Bansal and others vs. Bhuru (dead) Though Legal Representatives and others (2017) 4 Supreme Court Cases 202, while dealing with almost akin factual situation has held that if under the scheme of the **Rent Act**, no provision is made excluding the jurisdiction of the Civil Court in respect of the pending cases expressly or impliedly, as the rights of the parties stand crystallized on the date of institution of the suit, therefore, the law applicable on the date of filing of the suit will continue to apply until the suit is disposed of or adjudicated. Hon'ble Supreme Court has also held in this judgment that if during the pendency of the suit, the **Rent Act** becomes applicable to the premises in question, that would be of no consequence and it would not take away the jurisdiction of the civil court to dispose of a suit validly instituted and in order to oust the jurisdiction of the civil court, there must be a specific provision in the **Act**, taking away the jurisdiction of the civil court in respect of those cases also which were validly instituted before the date when protection of the **Rent Act** becomes applicable in respect of the said area/premises/tenancy.*
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> *9. Thereafter, in Shankarlal Nadani vs. Sohanlal Jain AIR 2022 Supreme Court 1813, Hon'ble Supreme Court has reiterated the principles laid down by Hon'ble Supreme Court in Rajender Bansal and others vs. Bhuru (Dead) Through Legal Representatives and others (supra) and held that rights of the parties have to be determined on the date when lis commences, i.e. on the date of filing of the suit, as plaintiff is entitled to decree on that day when he initiated the proceedings, therefore, the rights of the parties have to be examined as on the said date.*
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> *10. A careful perusal of the provisions of the **Himachal Pradesh Urban Rent Control Act**, 1987, demonstrates that there is no provision therein which expressly or impliedly excludes the jurisdiction of the civil courts with regard to those civil suits which stood validly instituted before 1987 **Act** was made applicable to the premises in question. That being the case, this Court does not find any infirmity with the order that has been passed by learned Trial Court because as at the time when the civil suit was filed by the plaintiffs, the suit land admittedly was not falling within the area under the jurisdiction of the **Himachal Pradesh Urban Rent Control Act**, 1987, the subsequent inclusion thereof under the jurisdiction of the **Act** would not render the suit as non est."*

16. In view of the exposition of law as laid down by the Hon'ble Apex Court and this Court, there is no doubt that there is no bar in entertaining the suit which has been instituted by the plaintiff against the defendant/present petitioner.

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Therefore, this Court does not find any infirmity, illegality, or jurisdictional error in the impugned order passed by the learned Trial Court on 2nd March, 2026.

17. In view of the aforesaid observations, the present petition, being devoid of any merit, deserves to be dismissed and is accordingly dismissed.

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

(Romesh Verma)
Judge

September 24, 2026
(Nisha)

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