

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.784/2025

Date of Decision: 30th December, 2025.

Mohinder Narula

.....Petitioner

Versus

Dinesh Chand Narula and Ors.

...Respondents

Coram

The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the Petitioner: Mr. Vivek Singh Attri, Advocate.

For the Respondents: Nemo.

Bipin Chander Negi, Judge (oral).

The present petition has been preferred against the impugned order dated 07.10.2025, passed by the learned Senior Civil Judge, Sirmaur, District Sirmaur, HP, whereby an application filed under Order VII Rule 11 read with Section 151 of the CPC filed by the present petitioner has been dismissed.

2. Heard counsel for the petitioner and perused the impugned order and the documents appended along with the present petition.

3. The petitioner and proforma respondents No.3 to 5, in the case at hand, are the defendants before the learned trial Court. The suit in the case at hand had been filed by respondent No.1. Present respondent No.1/plaintiff and the father of the present petitioner and proforma respondents No.3 to 5 are real brothers. The predecessor-

in-interest of the present petitioner and proforma respondents No.3 to 5 along with present respondent No.1/plaintiff, had purchased the suit land from the erstwhile rulers of the Sirmaur.

4. Insofar as the suit land is concerned, the aforesaid buyers had instituted a suit on 12.04.1996, seeking declaration, permanent prohibitory injunction against the State of Himachal Pradesh and Municipal Council at Nahan, bearing No.49/1 of 1996. The suit was decreed on 18.03.2000. Aggrieved by the same, the Municipal Council, Nahan had preferred an appeal against the same and the same was dismissed on 28.02.2002 by the learned District Judge, Nahan.

5. As a consequence of the adjudication, present respondent No.1/plaintiff and the predecessor-in-interest of the present petitioner and proforma respondents No.3 to 5, were held entitled to be recorded as co-owners in possession of the suit land in the relevant revenue record. Other than the aforesaid, qua certain portion of the land, they were held to be the co-owners on account of adverse possession. Petitions preferred under the HP Public Premises Act were held against the aforesaid buyers, to be not maintainable. On the basis of the aforesaid,

appropriate mutation bearing No.176 dated 22.08.2008, had been incorporated.

6. It is alleged in the plaint that the predecessor in interest of the present petitioner and proforma respondents No.3 to 5 had got the mutation bearing No.176 dated 22.08.2008 reviewed and thereby had got the revenue record manipulated by depicting the present petitioner and proforma respondents No.3 to 5 to be the owners in possession of the suit land. It is in the aforesaid backdrop that the present suit for declaration and injunction has been filed.

7. An application under Order VII Rule 11 read with Section 151 CPC, for rejection of the plaint has been filed by the present petitioner and proforma respondents No.3 to 5. The allegation in the application being that on account of previous litigation, details whereof have been given supra and in the plaint, the same is barred on the principle of res judicata.

8. For the purpose of adjudication of application filed under Order VII Rule 11 CPC only the averments in the plaint and the documents appended thereto to be looked into and nothing else has to be examined.

9. I have perused the plaint, copies of the judgment reference whereof have been made in the plaint and in the

application under Order VII Rule 11 CPC, which are placed on record as Annexures P-2 and P-3. From a reading of the plaint, it is evident that in pursuance to the previous litigation, present respondent No.1 and predecessor in interest of petitioner and proforma respondents No.3 to 5, had been declared to be the owners of the suit land. Appropriate necessary mutation was effected in the revenue record. However, subsequently clandestinely the mutation so made was got reviewed by predecessor in interest of the petitioner and proforma respondents No.3 to 5. It is in this backdrop that the suit for declaration and injunction has been filed. The plea of the present suit being barred by res judicata, in my considered view, in the aforesaid facts and attending circumstances is totally misconceived.

10. I see no valid reason to interfere with the impugned order, therefore, the present petition is dismissed being devoid of merit, so also the miscellaneous pending applications, if any.

(Bipin Chander Negi)
Judge

30th December, 2025
(Gaurav Rawat)