

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 302 of 2026

Decided on : 19.08.2026

Pritha Sharma & Another

...Petitioners

Versus

Janak Raj Sharma & Others

...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the petitioners : Ms. Ritu Sharma, Advocate.

For the respondents : Mr. M.S. Thakur & Mr. Manish
Kumar, Advocates.

Virender Singh, Judge (*Oral*)

The petitioners have initially filed the present petition, under Section 115 of the Code of Civil Procedure (hereinafter referred to as 'the CPC'), however, later on, vide order dated 17.06.2026, passed in CMP No. 14939 of 2026, it was converted into the petition, filed under Article 227 of the Constitution of India.

2. The present petition has been filed against the order dated 26.02.2024, passed by the learned Civil Judge,

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

Court No.8, Shimla, H.P. (hereinafter referred to as 'the trial Court'), in an application, filed under Section 114 read with Order 5 Rule 25 of the CPC.

3. Brief facts, leading to the filing of the present petition, as borne out from the documents, annexed with the petition, may be summed up, as under:-

3.1. Respondent No.1, as well as, predecessor-in-interest of respondents No.2 to 4, have filed the suit for declaration, partition and permanent prohibitory injunction, against petitioners No.1 and 2, as well as, respondents No.5 to 11. The said suit was dismissed in default on 03.01.2018. Thereafter, application, under Order 9 Rule 9 of the CPC, has been filed.

3.2. It is the further case of the petitioners that thereafter, the present petitioners have filed an application, under Order 5 Rule 25 of the CPC, for reviewing the orders dated 27.02.2018 and 02.05.2018, by virtue of which, respondent No.6 Amit Sharma (respondent No.2, in the application) and respondent No.8 Smt. Pooja Sharma

(respondent No.4(c), in the application), were ordered to be proceeded against *exparte*.

3.3. In addition to this, a prayer has also been made to serve respondents No.6 and 8, under the provisions of Order 5 Rule 25 of the CPC.

3.4. The said application has been filed, on the ground, that respondent No.1 has disclosed the addresses of respondents No.6 and 8, to be of Sanjauli and Middle Bazar respectively, which are incorrect to the knowledge of respondent No.1/plaintiff. However, respondent No.6-Amit Sharma, is residing in Kuwait, for the last 26-27 years, whereas, respondent No.8, Ms. Pooja Sharma, has shifted to Canada, along with her family.

3.5. Petitioners have sought the review of the order dated 26.02.2024; mainly, on the ground, that the above respondents have wrongly been proceeded against *exparte*, hence, a prayer has been made to review the orders dated 27.02.2018 and 02.05.2018, qua the service of respondent No.2 and 4(c) and plaintiff be permitted to comply with the

provisions of Order 5 Rule 25 of the CPC, for effecting service upon respondents No.2 and 4(c), in the interest of justice.

4. Admittedly, the petitioners were respondents, in the application, under Order 9 Rule 9 of the CPC. The learned counsel appearing for the petitioners could not satisfy the judicial conscience of this Court qua the fact that when, the suit was filed by plaintiffs Janak Raj Sharma and Samarth Raj Sharma (since deceased), then, how the application, for review is maintainable, on behalf of the persons, who have been arrayed as defendants in the said suit. The present petitioners were arrayed, as defendants No.4(a) and 4(b), in the said *lis*.

5. Learned counsel for the petitioners could also not satisfy the judicial conscience of this Court, as to what was the error apparent on the face of record, which warrants interference, by this Court, in the limited jurisdiction, under Article 227 of the Constitution of India.

6. Considering the above facts, the petition, under consideration, is dismissed, so also the pending application(s), if any.

Record be sent back.

August 19, 2026*(ps)*

(Virender Singh)
Judge