

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No.27 of 2026
Decided on: 24.09.2026

M/s Baba Resorts Pvt. Ltd.

...Petitioner

Versus

Chowang Narbu Dupka and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Anirudh Sharma, Advocate.

For the respondents: Mr. Rajesh Mandhotra and
Mr. Jitender Sharma, Advocates,
for respondent No.1.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has challenged the order dated 26.02.2026, passed by the learned Senior Civil Judge, Kasauli, District Solan, HP (in short 'learned executing Court'), on an application under Section 151 of the Code of Civil Procedure (in short 'CPC') bearing CIS Case No.51 of 2026, whereby the petitioner, who is judgment debtor No.1 in the execution petition, was directed to deposit 50% of the decretal amount in the Court within 15 days from the date of passing the order.

2. A suit for recovery of amount was instituted by

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

respondent against the petitioner and other defendants, which suit was decreed ex-parte vide judgment dated 08.04.2025 by the learned Senior Civil Judge, Kasauli, District Solan, H.P. and the respondent was held entitled to recover an amount of Rs.13,38,370/- along with interest at the rate of 6% per annum from the date of filing the suit, till realization of the same from the petitioner and defendants jointly and severally.

3. The respondent filed a petition seeking execution of the ex-parte judgment and decree dated 08.04.2025 and the petitioner as well as some of the defendants/Judgment Debtors No.3 and 5 moved separate applications praying therein that the proceeding in the execution petition be stayed till disposal of their application filed under Order 9 Rule 13 read with Section 151 of the CPC for setting aside the ex-parte order and ex-parte judgment & decree.

4. The learned executing Court, vide order dated 26.02.2026 had disposed of the applications filed by the petitioner and defendants/Judgment Debtors No.3 and 5. The petitioner was directed to deposit 50% of the decretal amount in the Court within 15 days and Judgment Debtors No.3 and 5 were directed to furnish personal bonds along

with one solvent surety each to the satisfaction of the Court within 15 days from the date of passing the order with an undertaking to abide by the final outcome of the application under Order 9 Rule 13 of the CPC and to satisfy the decree in case the same is ultimately held binding upon them.

5. The petitioner feeling aggrieved by the said order passed by the learned executing Court has preferred the present revision petition before this Court *inter alia* on the ground that the learned executing Court has failed to take into account the report of the Registry of the Court, wherein notices issued to him and other defendants were reported to be unserved for want of correct addresses. Thereafter, the petitioner and defendants again reported to be unserved and subsequently on 07.05.2024 on the basis of affixation order, the petitioner and defendants No.3 to 5 were proceeded against ex-parte on 09.07.2024 and passed an ex-parte decree against them.

6. It has further been averred that the right of the respondent to recover the decretal amount has tried to be protected by giving direction to deposit 50% of the decretal amount, which can otherwise be protected by ordering security of the amount by furnishing the immovable

property, for which the petitioner was ready and as such prayed for setting aside the order passed by the learned executing Court, whereby the petitioner has been directed to deposit 50% of the decretal amount in the Court.

7. This Court vide order dated 02.04.2026 had stayed the order passed by the learned executing Court whereby the petitioner was directed to deposit 50% of the decretal amount, subject to his furnishing solvent surety within four weeks.

8. Learned counsel representing the respondent has supported the order passed by the learned executing Court and submitted that this Court while exercising the revisional jurisdiction may not like to interfere with the said order for the reason that the learned executing Court had only given the direction to the petitioner to deposit 50% of the decretal amount in the Court, which was not ordered to be released in favour of the respondent. He further submitted that merely filing an application under Order 9 Rule 13 of the CPC does not automatically stay execution of the decree and, therefore, the revision petition being devoid of any merit be dismissed.

9. I have heard the learned counsel for the parties

and also perused the record carefully.

10. So far as the averments, which have been made in the revision petition and further the contention raised by the learned counsel representing the petitioner that the petitioner has wrongly been proceeded against ex-parte are concerned, this Court will not go into that question and has only to see whether the impugned order passed by the learned executing Court is valid and is legally sustainable. The learned executing Court while giving direction to the petitioner to deposit 50% of the decretal amount has not assigned any cogent reasons. Once the learned executing Court had directed other judgment debtors, who were also held jointly and severally liable to pay the decretal amount to furnish the personal bonds along with one solvent surety each to the satisfaction of the Court, the petitioner could have also been asked to furnish the personal bond along with one surety. Since the learned executing Court has not given the similar treatment to the petitioner and furthermore, after the order passed by this Court, the learned counsel for the petitioner submits that he has furnished solvent surety, the interest of the respondent, in whose favour the decree has been passed by the trial Court,

has been protected and thus, the order to the extent of directing the petitioner to deposit 50% decretal amount, is quashed, but he is asked to furnish the solvent surety within two weeks if not already furnished to protect the interest of the respondent.

11. Learned counsel representing the respondent has submitted that despite the fact that the decree has been passed in his favour on 08.04.2025, the same has not been executed so far and as such, he prayed that the learned executing Court may be directed to expedite the proceedings, so that the respondent is able to reap the fruits of the decree passed in his favour.

12. The submission made by the learned counsel representing the respondent to the extent that the learned executing Court may be directed to decide the application filed by the petitioner and other JDs for setting aside the ex-parte in time bound manner deserves to be accepted and the executing Court is directed to decide the applications filed by the petitioner and other JDs for setting aside the ex-parte judgment and decree within six months from today. Since the petitioner has now furnished the solvent surety, as submitted by the learned counsel for the petitioner, or if

not furnished till date, the same shall be furnished within two weeks from today before the learned executing Court below so that the interest of the respondent-decree holder is protected and the order dated 26.02.2026 passed by the learned executing Court to the extent that the petitioner shall deposit 50% of the decretal amount is modified.

13. Consequently, the present petition is partly allowed and the order dated 26.02.2026 passed by the learned Senior Civil Judge, Kasauli, District Solan, H.P., in CIS Case No.51 of 2026, titled, ***Chowang Narbu Dupka vs. M/s Baba Resorts & Ors.,*** is modified to the extent that instead of depositing 50% of decretal amount, the petitioner shall furnish the solvent surety, if not, already furnished within a period of two weeks from today to the satisfaction of the learned executing Court. The learned executing Court is directed to decide the applications filed by the petitioner and other defendants under Order 9 Rule 13 of the CPC for setting aside the ex-parte order and judgment & decree within a period of six months from today. No order as to costs. Pending applications if any stand disposed of.

24th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**