

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.170 of 2026

Date of decision:18.09.2026

Thuma Ram ...Petitioner

Versus

Ram Krishan (deceased) through LRs & others ...Respondents.

Coram:

The Hon’ble Mr. Justice Romesh Verma, Judge.

*Whether approved for reporting?*¹

For the petitioner: Mr. Pawan K. Sharma, Advocate.

For the respondents: Mr.L.S. Mehta, Advocate for respondents No.1(i) to 1(vi) and 2.

Romesh Verma, Judge (oral):

The present petition arises out of the judgment as passed by the learned Additional District Judge-1, Mandi, District Mandi, H.P., dated 11.12.2025, whereby the appeal filed by the appellant/petitioner, Thuma Ram, was ordered to be dismissed, affirming the order as passed by the learned Civil Judge, Karsog, District Mandi, dated 30.04.2025, whereby the application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (CPC) filed by the plaintiffs/respondents was allowed.

2. The facts, as emerge for the adjudication of the present petition, are that the plaintiffs-respondents filed a suit for permanent prohibitory injunction and mandatory injunction in the Court of the

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

learned Civil Judge, Karsog. As per the case as set up by the plaintiffs-respondents, it has been averred that the suit land is joint and unpartitioned *inter se* the parties in the revenue record. It is averred that defendant No.1 purchased some part of the suit land from Shri Dinesh Kumar, son of Shri Tara Chand and defendant No.2 purchased some part of the suit land from Smt. Reena. It is further averred that defendant No.1 had constructed a house on the suit land without getting the suit land partitioned, thereby changing the nature of the suit land above the house of defendant No. 1.

3. It has been stated in the plaint that there is a part of the suit land above the house of defendant No.1 possessed by the plaintiff, equally adjoining the road. Since the suit land is most valuable, abutting the Karsog to Shahot road, the defendants with an intention to usurp the roadside front of the suit land, have started taking forcible possession of the suit land by raising construction.

4. Therefore, under such circumstances, it was prayed that the defendants be restrained, through their family members, relatives, labourers, agents and servants, from interfering in the suit land by passing a decree of permanent prohibitory injunction as well as mandatory injunction directing them to remove the entire construction and debris lying over the suit land.

5. The said suit came to be resisted by the defendants/present petitioner by filing written statement, wherein

preliminary objections with respect to maintainability, cause of action, enforceability, misjoinder, non-joinder, etc. were raised. On merits, it was averred that the petitioner purchased the land from Shri Dinesh Kumar. However, he also purchased the share of one of the other co-sharers, namely, Godawari. As per the defendant, he started the levelling work in the month of June 2022 and by levelling his portion, he has erected danga/retaining wall within his own share and at the relevant time, neither the plaintiff nor the other co-sharers objected to the said construction.

6. It has further been stated that the plaintiff himself has raised the construction of a house over the suit land. Therefore, the suit as filed is mala fide, an afterthought and liable to be rejected. All the averments made in the plaint were specifically denied and refuted and the defendants prayed for the dismissal of the suit.

7. The plaintiff-respondent, along with the suit, filed an application under Order 39 Rules 1 and 2 CPC seeking an interim injunction against the non-applicants/defendants.

8. The said application was opposed by the present petitioner/defendant, who prayed for the dismissal of the said application.

9. The learned Civil Judge, Karsog, vide order dated 30.04.2025, allowed the application filed by the plaintiffs-respondents, and both parties were directed to maintain status quo qua the nature

and possession of the suit land comprised in Khata/Khatauni No. 29/35 to 37, Kitta 34, total measuring 17-03-01 bighas in Mauza Jong/439, Tehsil Karsog, District Mandi, H.P., and in Khata/Khatauni No. 42/60, Kitta 5, total measuring 05-14-02 bighas in Mauza Jong/439, Tehsil Karsog, District Mandi, as per the Jamabandi for the year 2021-2022.

10. Feeling dissatisfied, the present petitioner/defendant preferred an appeal under Order 43 Rule (1) of CPC before the Court of the learned Additional District Judge-I, Mandi, (camp at Karsog).

11. The learned Additional District Judge-I, Mandi, vide impugned judgment dated 11.12.2025, affirmed the findings of the learned trial Court and dismissed the appeal filed by the present petitioner/defendant.

12. Feeling dissatisfied, the defendant has approached this Court by invoking the provisions of Article 227 of the Constitution of India.

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

14. It is contended by Mr. Pawan Kumar Sharma, learned counsel for the petitioner on instructions, that he is satisfied with the impugned judgment and order passed by the learned Courts below. However, his client/petitioner shall be contented in case the revenue authorities are directed to take the partition proceedings to its logical

end, preferably within a period of three months from today. It is further contended that the petitioner shall not carry out any construction activity over the suit land during the pendency of the suit.

15. The said fair stand has been duly acknowledged by Mr.L.S. Mehta, learned counsel for respondents No.1(i) to 1(vi) and 2 and submits that he has no objection in case the revenue authorities are directed to decide the partition proceedings expeditiously.

16. Consequently, this Court does not find any infirmity, illegality or jurisdictional error in the impugned judgment and order passed by the learned Courts below. However, this petition is ordered to be disposed of with a direction to the revenue authorities that the revenue proceedings/partition proceedings shall be taken to its logical end, preferably within a period of three months from today positively, in accordance with law.

17. Needless to say, this Court has not expressed any opinion on the merits of the case and the authorities shall decide the revenue proceedings/partition proceedings on its own merits.

(Romesh Verma)
Judge

18th September, 2026.
(vt)