

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CMPMO No. : 357 of 2022****Decided on : 05.10.2026**

Ram Singh

...Petitioner

Versus

Jeet Singh & Anr.

...Respondents

The Hon'ble Mr. Justice Virender Singh, Judge.*Whether approved for reporting?¹*

For the petitioner : Mr. O.C. Sharma, Advocate.

For the respondents : Mr. R.K. Bawa, Senior
Advocate, with Mr. Abhinav
Thakur, Advocate.**Virender Singh, Judge (Oral)**

Petitioner-Ram Singh is before this Court, under Article 227 of the Constitution of India, against the order dated 14.06.2022, passed by the Court of learned Civil Judge, Kasauli, District Solan, H.P. (hereinafter referred to as 'the learned Executing Court'), in Execution Petition No. 8/10 of 2016, which has been filed under the provisions of Order 21 Rule 32 CPC.

2. For the sake of convenience, the parties to the *lis*, are, hereinafter, referred to, in the same manner, in

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

which, they were referred to, by the learned Executing Court.

3. The admitted facts, leading to the filing of the present petition, before this Court, as borne out from the record, may be summed up, as under:-

3.1 JD Ram Singh has filed a suit for permanent prohibitory injunction, qua the subject matter of the lis, which is Khasra No. 16, measuring 00-04-20 hectares, situated at Mauja/Mohal Katal, Tehsil Kasauli, District Solan, H.P. (hereinafter referred to as 'the suit land'). In the said suit, the Decree Holder had also filed the counter-claim.

3.2 After hearing the learned counsel for the parties and after giving the opportunity to lead evidence, the Court of learned Civil Judge, Kasauli, vide judgment dated 21.09.2015, has granted the following relief, to the parties to the lis:-

"25. Judged in the light of my findings on issues No. 1 to 10 above, the suit of the plaintiff is decreed with costs and counter claim of the defendants is partly decreed with costs. The plaintiff is held entitled for a decree for permanent prohibitory injunction restraining the defendants from interfering in the suit land bearing Khasra No. 16, ousting the plaintiff from the suit land, causing any type of damage, encroaching upon the suit land, by way of digging and by raising any type of construction on the suit land till it is partitioned by metes

and bounds, either themselves or through their agents, servants, assigns, family members, labourers, contractors etc. The counter claimants/defendants are also held entitled for a decree for permanent prohibitory injunction restraining the plaintiff from raising any type of construction in Khasra No. 16 situated in Mauza Katal, Tehsil Kasauli, District Solan, H.P. till it is legally partitioned. Decree sheet be prepared accordingly. The file, after its due completion be consigned to record Room."

4. Admittedly, the said judgment and decree, has not been assailed by any of the parties and has attained finality. Thereafter, the Decree Holder Jeet Singh and Hari Singh, had filed the execution under Order 21 Rule 32, read with Section 151 CPC, for enforcement of judgment and decree passed in counter claim No. 79/1 of 2013, by the Court of learned Civil Judge, Kasauli.

5. In the said execution, the learned Executing Court, has framed the following points for determination on 17.06.2017:-

1. *Whether respondent/J.D. has disobeyed the judgment and decree dated 21.09.2015, passed by this Court in counter claim No. 79/1 of 2013, titled as Jeet Singh & Anr. Vs. Ram Singh, by raising construction over the suit land, as alleged? OPA*
2. *Whether the application is not maintainable in its present form, as alleged? OPR*
3. *Whether the applicants have not come to the Court with clean hands and have suppressed the material facts from the Court, as alleged? OPR*
4. *Relief.*

6. After giving the opportunity to lead evidence, the said execution petition, has been decided by dismissing the objections raised by the JD and warrant of attachment, was ordered to be issued against the JD.

7. The said order has been assailed, by way of the present petition.

8. Once, the judgment and decree passed by the Court of learned Civil Judge, Kasauli, District Solan, H.P., has attained finality, then, the only option, left with the Court is to punish the violator.

9. During the pendency of the lis, before this Court, Tehsildar Kasauli was appointed as Local Commissioner, who visited the spot and submitted the report.

10. Considering the allegations, as levelled in the application under Order 21 Rule 32 CPC, according to which, the JD has raised the construction over the subject matter of the lis, in utter violation of the decree, passed in favour of Decree Holder, in counter claim No. 79/1 of 2013, the evidence with regard to the construction, which has been allegedly raised, over the subject matter of the lis, could have been there, to demonstrate the construction, if

any, raised by the JD, after passing of the decree, which, had attained finality, in the present case.

11. Consequently, not much reliance can be placed on the report of Tehsildar, as to take action against the J.D., for violation of the judgment and decree, under Order 21 Rule 32 CPC, evidence of some expert is required. Consequently, the order, which has been impugned, before this Court, is ordered to be set aside and the matter is remanded back to learned Executing Court, with a direction to appoint some expert, who will visit the spot and to give positive findings with regard to the age of the construction, if any, raised over the subject matter of the lis.

12. With these observations, the petition is disposed of. Matter is remanded back to learned Executing Court, with the above observations. Considering the fact that the decree was passed, way back in the year 2015, it is expected from the learned Executing Court, to decide the Execution afresh, within a period of four months, from today.

13. Parties through their counsel are directed to appear before the learned Executing Court on 26.10.2026, at 10:00 am.

14. Record be sent back immediately.

(Virender Singh)
Judge

05th October, 2026
(Pramod Kumar)