

Madan Lal vs. Bal Krishan

RSA No.232 of 2022

14.08.2026 Present: Ms. Dhanwanti Devi, Advocate, for the appellant.
Mr. Aman Parth Sharma, Advocate, for the respondent.

CMP No.18535 of 2026

The present application has been filed, seeking modification of interim order dated 22.08.2022. The relevant extract whereof reads as under:-

“CMP No. 11373 of 2022

Notice in the aforesaid terms. In the meanwhile, parties are directed to maintain status quo qua the nature and possession of the suit land comprised in Khata/Khatauni No.43/51, Khasra Nos. 172, 174, 204 and 205, total land measuring 10-3 Bighas, situated at Mauza Muchhan, Pargna Sunhani, Tehsil Ghumarwin, District Bilaspur, H.P.. Further, non-applicant is also restrained from alienating or creating charge on the suit land till next date.”

The same was made absolute vide order dated 12.11.2025. The relevant extract whereof reads as under:-

“CMP No. 11373 of 2022

No reply is intended to be filed on behalf of the non-applicant. Interim order dated passed on 22.08.2022, is made absolute during the pendency of the present appeal, subject to modification of the order by moving an appropriate application. Application stands disposed of.”

The non-applicant/appellant, in the case at hand, was the plaintiff before the Trial Court. The non-applicant/appellant-plaintiff had filed a suit for permanent prohibitory injunction. One Jiunu had executed a Will dated 12.09.1994, which was registered on 19.09.1994. Subsequent thereto, Jiunu Ram had executed a Revocation Deed dated 04.04.2002 and by virtue of the said Revocation Deed had cancelled the Will dated 12.09.1994. Other than the aforesaid, on 04.04.2002, Jeenu Ram executed a last Will in favour of the present respondent/defendant before the learned Trial Court.

Both the Courts below have held the last Will dated 04.04.2002 to be valid, and thereby the Revocation Deed dated 04.04.2002, whereby the previous Will dated 12.09.1994 stood revoked, has also been upheld.

In the aforesaid attending facts and circumstances, the learned Trial Court had dismissed the suit filed by the present non-applicant/plaintiff. The learned First Appellate Court has upheld the judgment and decree passed by the learned Trial Court. At this juncture, it would be appropriate to reproduce the relevant extract of the judgment of the learned First Appellate Court, which reads as follows:-

“ In the light of Will Ext.DC, defendant became owner in possession of the suit property and a correct and legal mutation has been sanctioned in favour of the defendant.”

It is in the aforesaid backdrop, wherein both the Courts below have found the applicant/defendant to be in possession

of the suit land, that the present application for modification of the interim order dated 22.08.2022, affirmed on 12.11.2025 (reproduced supra), needs to be considered.

From the photographs placed on record (Annexure MA-2) along with the present application, the condition of the cowshed existing on the suit land is self-evident. From the photographs, it is evident that the walls of the cowshed have cracked.

In the reply filed to the application, it has been averred that a part of the suit land in the case at hand was being used by both the parties since long, but now the non-applicant/appellant/plaintiff has not been allowed to use the suit land for tethering his cattle in the cowshed; hence, it is submitted that the non-applicant/plaintiff/appellant has been forced to keep his animals in the cowshed of his neighbor.

In the facts and attending circumstances of the case at hand narrated here-in-above, the contention so raised in the reply seems to be preposterous, as had the non-applicant/appellant/plaintiff been in possession of the suit property, then both the Courts below would have decreed the suit in so far as permanent prohibitory injunction was concerned.

Hence, the present application is allowed. The applicant is permitted to reconstruct the cowshed on old lines and on exactly the same spot where it was earlier in existence. No additional construction is being permitted by the present modification. It is made clear that no equity shall accrue in

favour of the applicant on account of the present modification
so ordered by this Court.

The application stands disposed of in the aforesaid
terms.

August 14, 2026 (KS)

(Bipin C. Negi)
Judge