

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No. 79 of 2026

Date of decision : 19.06.2026.

Daulat Ram ...Petitioner.

Versus

Ram Dass & another ...Respondents.

Coram:

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

*Whether approved for reporting?*¹

For the petitioner : Mr. Shubham Kashyap, Advocate.

For the respondents : Nemo.

Romesh Verma, Judge (Oral):

The instant petition arises out of order as passed by the learned Civil Judge, Bilaspur, District Bilaspur, H.P. dated 26.05.2026, whereby an application filed by the defendants under Order 26 Rules 1 and 4 read with Section 151 of CPC, seeking appointment of a Local Commissioner to record the evidence of defendant No.2 at her residence was allowed.

2. The facts as emerge in the present case are that the petitioner/plaintiff filed a suit in the Court of learned Civil Judge, Bilaspur, District Bilaspur, H.P. for declaration

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

and for setting aside the revenue entries against the defendants/ respondents on 19.05.2016. Admittedly, the suit is pending before the learned trial Court. During the pendency of the suit, the defendants filed an application under Order 26 Rules 1 and 4 CPC for examination of defendant No.2 being an old lady by appointing a Local Commissioner.

3. The said application was duly contested by the plaintiff on various grounds. It was contended that the application is frivolous and without any merit and the same deserves to be dismissed.

4. The learned trial Court vide impugned order dated 26.05.2026 allowed the application and feeling dissatisfied by the impugned order, the petitioner has approached this Court by way of present petition.

5. It is contended by the learned counsel for the petitioner that keeping in view the past conduct of respondent No.2, no relief could have been granted to the defendants. He further submits that earlier also, respondent No.2 allowed herself to be proceeded against ex-parte and thereafter filed an application for setting aside the said ex-

parte order. Subsequently, an application under Order 14 Rule 5 CPC was filed in order to delay the case in hand and the said application also came to be dismissed. Further, it is contended that by means of the the aforesaid application which was filed by the defendants, an endeavor was made by them to prolong the civil suit as filed by the petitioner.

6. I have heard learned counsel for the parties and have also gone through the case file.

7. Admittedly, respondent No.2 is aged more than 80 years. As per the averments as made in the application, respondent No.2 is bed ridden. Therefore, under these circumstances, it cannot be believed that the intention of respondent No.2 is to prolong the civil suit as filed by the petitioner. The learned trial Court has rightly come to the conclusion that defendant No.2 is an old lady and is bed ridden and after taking into account her medical certificates, appended with the application, rightly came to the conclusion that opportunity should be granted to defendants for examination of defendant No.2 at her residence. The learned trial Court has rightly exercised the jurisdiction and

in the considered opinion of this Court, there is no error or jurisdictional error in the impugned order.

8. Consequently, there is no merit in the petition and the same is dismissed. However, the impugned order is partially modified to the extent that such examination shall be subject to the payment of Rs. 5,000/- to be paid to the plaintiff by the defendants. Pending applications, if any, also stand disposed of.

(Romesh Verma)
Judge

19th June, 2026.
(kck)