

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 427 of 2026

Decided On : 07.08.2026

Kalyan Singh

...Petitioner

Versus

Jagat Singh

...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

*Whether approved for reporting?*¹

For the petitioner : Mr. Suresh Singh Saini,
Advocate.

For the respondent : None.

Virender Singh, Judge (Oral)

The petitioner has been arrayed as defendant in Civil Suit No. 30/2021, titled as "Jagat Singh Versus Kalyan Singh", pending adjudication, before the Court of learned Civil Judge, Shillai, District Sirmour, H.P. (hereinafter referred to as 'the learned trial Court').

2. For the sake of convenience, the parties to the present *lis*, are, hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

3. Plaintiff Jagat Singh has filed a suit for permanent prohibitory injunction, restraining the

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

defendant from digging, laying foundation, interfering, taking forcible possession over the land bearing Khata Khatauni No. 7min/12min, Khasra No. 5505/849, total measuring 19-14 bighas, situated at Mauza Shillai, Tehsil Shillai, District Sirmour, H.P. (hereinafter referred to as 'the suit land').

4. The said suit was contested by the defendant. Consequently, on 24.09.2022, issues were framed and thereafter, the matter was fixed for PWs.

5. As per the zimni orders, plaintiff appeared in the witness box as PW-1, on 17.10.2023, and his examination-in-chief has been recorded. On that day, learned counsel for the defendant, sought time for cross-examination, on the ground that the copy of the affidavit has been supplied to him, on that day only. As such, the matter was adjourned.

6. Thereafter, on 28.02.2024, the defendant counsel further sought time to cross-examine the plaintiff. Similar request has been made on 23.08.2025, 30.10.2025. On 30.10.2025, last opportunity was granted to the plaintiff to adduce his evidence.

7. Thereafter, on 08.05.2026, when the case was listed for cross-examination of the plaintiff, on that day, on account of ailment of the counsel representing the defendant, adjournment has been sought. However, learned trial Court has closed the opportunity to cross-examine the plaintiff.

8. The said order has been assailed before this Court.

9. As per the zimni orders, although sufficient opportunities have been taken by the defendant to cross-examine the plaintiff, as well as, the other witnesses, but considering the fact that on 08.05.2026, when a request qua the ailment of the learned counsel representing the defendant was made, it was expected from the learned trial Court, to consider the said fact in sympathetic manner.

10. Considering the said fact, order dated 08.05.2026, by virtue of which, the opportunity to cross-examine the plaintiff, was closed by the order of the Court, is liable to be set aside. Consequently, the petition is allowed and order dated 08.05.2026, passed by the learned trial Court is set aside. The defendant is permitted to

cross-examine the plaintiff, as well as, the other witnesses, subject to cost of Rs. 2,500/-, to be paid to the plaintiff.

11. Pending application(s), if any, shall also stand(s) disposed of.

07th August, 2026
(*Pramod Kumar*)

(Virender Singh)
Judge