

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.
Civil Revision No.121 of 2025
Decided on: 20.07.2026

Narpat and another
...Petitioners

Versus

Man Chand and others
...Respondents

Coram
Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.
Whether approved for reporting?¹

For the petitioners: Mr. Atul Verma, Advocate.
For the respondents: Mr. Vipul Sharda and Mr. Raditya
Katoch, Advocates.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioners-judgment debtors by way of the present petition have challenged the order dated 11.06.2025 passed by the learned Senior Civil Judge, Palampur, District Kangra, H.P., whereby the application filed by the respondents-decree holders under Order 21 Rule 32 of the Code of Civil Procedure (for short 'CPC') has been allowed and they have been ordered to be sent to civil imprisonment for a period of three months on depositing subsistence allowance of Rs.3000/- per month each of the petitioners-judgment debtors i.e. Rs.9000/- per month initially for a period of one month. The

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

immovable property of petitioners-judgment debtors has also been ordered to be attached for a period of six months.

2. The respondents-decree holders had filed a civil suit against the petitioners-judgment debtors for permanent prohibitory injunction restraining them from taking forcible possession and causing interference in the land comprised in Khata No.130, Khatauni No.270, Khasra No.382 land measuring 00-05-58 hectares situated in Mohal Lahla Khas, Mouja Lahla, Tehsil Palampur, District Kangra, H.P. (for short "suit land"). The said civil suit was decreed by learned Civil Judge (Senior Division), Palampur, District Kangra, H.P. on 04.11.2015, restraining the petitioners-judgment debtors from interfering and taking forcible possession of the suit land till they establish their right through process of law/procedure established by law.

3. It is an admitted fact that the petitioners-judgment debtors did not challenge the judgment and decree dated 04.11.2015 passed by the learned trial Court and the respondents-decree holders filed an application under Order 21 Rule 32 CPC, stating therein that after passing of the judgment and decree, the petitioners-judgment debtors on 13.05.2016 started interfering in the suit land, when the respondents-decree holders were sowing the suit land and thus they have violated the decree passed by the

learned trial Court. It was also averred in the application that the decree was passed in presence of the petitioners-judgment debtors and they had an opportunity to obey the same. However, the petitioners-judgment debtors willfully disobeyed the decree passed by the trial Court. The petitioners-judgment debtors had to obey the decree, but they have willfully failed to obey the same and knowingly and intentionally violated the decree and have made themselves liable to be punished under Order 21 Rule 32 CPC.

4. The petitioners-judgment debtors filed reply to the application and averred that nothing had been done by them after passing of the decree. They further averred that they are also in possession of the suit land, which is jointly owned by the parties. It has also been averred that they being illiterate persons are not aware about the fact that where they have interfered in the suit land. The demarcation has not been carried out by the respondents-decree holders. Not only this, the respondents-decree holders were not aware about the exact boundary and they have not filed the demarcation report.

5. The learned executing Court, after completion of the pleadings, framed issues in the execution petition, which read as under:-

"1. Whether respondents have intentionally and willfully disobeyed the decree of this court dated 04.11.2015 passed in civil suit No.110/2012 titled as Man Chand and others Vs. Narpat and others, as alleged? OPA.

2. Relief."

6. After framing the issues, the parties were granted due opportunity to lead their evidence. The respondents-decree holders to prove that the petitioners-judgment debtors have violated the decree passed by the learned trial Court have examined the witnesses. Thereafter, the petitioners-judgment debtors produced their evidence and after recording the evidence, the learned executing Court returned the findings that one of the petitioners-judgment debtors, namely, Narpat, while appearing as a sole witness again reiterated his possession over the suit land to the extent of two kanals and denied any interference or obstruction in May, 2016. The executing Court has returned findings that the petitioners-judgment debtors had stated about their possession over the area of two kanals of suit land, which as per their version was much prior to 2016. However, in the judgment and decree under execution passed by the learned trial Court shows that one of the petitioners-judgment debtors namely Narpat, who appeared as DW-1 on 30.07.2015 in the civil suit had stated that about 1½ kanals land is in his possession, but in his examination-in-chief, in the

execution petition, he had now asserted his possession over an area of two kanals. It has been held that the version of the petitioners-judgment debtors regarding possession over the suit land cannot be accepted, in view of the judgment passed by the trial Court, wherein the plea now taken has already been adjudicated and secondly, even if it is accepted, since the petitioners-judgment debtors were in possession of 1½ kanals of land, the petitioners-judgment debtors are now asserting possession over two kanals, which clearly shows that they have interfered with the suit land after passing of the decree and they have covered about ½ kanal land, which clearly shows that they have willfully disobeyed the decree under execution. After recording the evidence, the learned executing Court has ordered the petitioners-judgment debtors to be sent to civil imprisonment for a period of three months.

7. The petitioners-judgment debtors have challenged the order passed by the learned executing Court *inter-alia* on the grounds that the impugned order is illegal, arbitrary and passed without jurisdiction inasmuch as in violation of the principles of natural justice. It has further been averred that the learned executing Court failed to record any findings with respect to the evidence, which is a mandatory requirement under Order 21 Rule 32 CPC, before passing any coercive order. The impugned order is also

in violation of Article 21 of the Constitution of India as the detention order was passed without following the due process of law. The amount of Rs.9,000/- per month fixed as subsistence allowance was arbitrarily determined without considering the financial condition of the petitioners-judgment debtors and the same is contrary to mandate of Sections 57 and 58 CPC. It has also been averred that dual punishment of civil imprisonment and attachment simultaneously is excessive and disproportionate, especially when the object of securing compliance could have been achieved through less harsh measures.

8. Learned counsel for the respondents/decreed holders has supported the order passed by the learned executing Court and argued that this Court while exercising revisional jurisdiction has very limited powers to interfere with the order passed by the learned executing Court. Since there is neither any perversity nor illegality, the petition without any substance may kindly be dismissed.

9. I have heard the learned counsel for the parties and carefully perused the record of the executing Court.

10. The respondents-decreed holders had filed a civil suit for permanent prohibitory injunction against the petitioners-judgment debtors in the year 2012 in respect of the suit land, which came to

be decreed on 04.11.2015 by the learned trial Court in Civil Suit No. 110 of 2012, titled, **Man Chand and others vs. Narpat and others**, passing the decree in favour of the respondents-decree holders. The operative part of the decree reads as under:-

"It is ordered that***

The suit of plaintiff succeeds and is hereby decreed restraining the defendants from interfering and taking forcibly possession of land comprised in Khata No. 130, Khatauni No. 270, Khasra No. 382, measuring 00-05-58 hectares situated at Mohal Lahla Khas Mauza Lahla Tehsil Palampur Distt. Kangra H.P. till they establish their right through process of law/ procedure established by law. In the facts and circumstances of the case, parties are left to be r their own costs."

11. It is not in dispute that the petitioners-judgment debtors did not challenge the decree passed by the learned trial Court. The respondents-decree holders had filed the application under Order 21 Rule 32 CPC for violating the decree specifically alleging therein that after the passing of the judgment and decree by the trial Court, the petitioners-judgment debtors along with their family members on 13.05.2016 had caused interference in the suit land, while the respondents-decree holders were sowing the suit land and further they have abused the respondents-decree holders. Since the petitioners-judgment debtors knew about the decree, they have willfully violated the decree of the learned trial Court.

12. To prove the interference in the suit land, the respondents-decree holders examined respondent No.2/decree holder as AW-1 and tendered his evidence by way of an affidavit Ex.AW-1/A and further examined one Joginder Kumar, who appeared as AW-2. While cross-examining the witnesses produced by the decree-holders, a suggestion was given by the petitioners-judgment debtors that they were in possession of the suit land. Once the learned trial Court specifically passed the decree restraining the petitioners-judgment debtors from interfering and taking forcible possession of the suit land measuring 00-05-58 hectares, the suggestion given by the petitioners-judgment debtors that they are in possession of the suit land clearly shows that they have interfered with the suit land, after passing the decree in favour of the respondents-decree holders. This fact has also been proved by AW-2, who had deposed that in the month of May, 2016, the petitioners-judgment debtors were sowing the suit land. Not only this, one of the petitioners-judgment debtors, who appeared as DW-1 had tendered his evidence by way of affidavit Ex. DW-1/A and again re-asserted his possession over the suit land to the extent of two kanals of suit land. The learned trial Court had returned the findings that petitioner No.1 Narpat while appearing as DW-1 in the civil suit on 30.07.2015 had stated that he was in possession of 1½

kanals of land, but in examination-in-chief in the execution petition, he has asserted his possession over two kanals area. From this, only one conclusion can be drawn that the petitioners-judgment debtors despite the decree passed against them had interfered with the possession of the suit land while the respondents-decree holders were sowing the land. Once the petitioners-judgment debtors were aware about the decree passed against them, no illegality has been committed by the learned executing Court while passing the impugned order.

13. The plea taken by the petitioners-judgment debtors that the order under challenge has been passed without any jurisdiction as well as in violation of principles of natural justice, is without any substance for the reason that executing Court was competent to decide the execution petition and before passing the order, which is under challenge, the petitioners-judgment debtors have been granted full opportunity of hearing and one of the petitioners had examined himself as DW-1. Thereafter, the executing Court has recorded the findings of the fact that the petitioners-judgment debtors have willfully violated the decree passed by the learned trial Court. Once the petitioners-judgment debtors have interfered in the possession of the respondents-decree holders, despite the decree passed against them, the order under challenge does not require

any interference while exercising the revision jurisdiction. The Court while exercising the revision jurisdiction can interfere only if the order under challenge is perverse and has been passed by ignoring some material placed on record or the findings do not germane from record. The Court while exercising the revisional jurisdiction cannot re-appreciate the evidence or act like an appellate Court to scan the entire evidence.

14. Learned counsel for the petitioners-judgment debtors has vehemently argued that the executing Court has failed to record findings with respect to willful disobedience, whereas the perusal of the order clearly shows that the learned executing Court has returned specific findings that the petitioners-judgment debtors had willfully violated the decree under execution.

15. The plea taken by the petitioners-judgment debtors that the impugned order is in violation of Article 21 of the Constitution of India and further the amount of Rs.9,000/- per month as subsistence allowance was arbitrarily determined, is also without substance. Once a competent Court of law had passed a decree, a duty is cast upon the Court to ensure that the decree is complied with in letter and spirit. Once the respondents-decree holders have proved that the petitioners-judgment debtors had violated the decree passed by the trial Court by giving a specific date, which fact

has not been disputed by the judgment-debtors, rather a plea was taken that they are in possession of two kanals of the suit land, the executing Court has neither committed any illegality nor there is any perversity in the order.

16. As already discussed above, this Court while exercising revisional jurisdiction, cannot re-appreciate the evidence. Further, this Court cannot alter the order on the ground that the punishment of civil imprisonment and attachment simultaneously is excessive and disproportionate, especially when the executing Court had to ensure compliance of the decree and once the petitioners-judgment debtors have willfully violated the decree and there is specific finding returned by the executing Court, it is not for this Court to re-assess and re-evaluate the evidence recorded by the executing Court, especially when learned counsel for the petitioners-judgment debtors has failed to point out from the record of the executing Court that a particular part of the evidence has been wrongly discussed and further wrong findings have been returned by the learned executing Court.

17. Resultantly, I do not find any merit in the present petition, and the same is accordingly dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

18. The record of the executing Court be sent back forthwith.

20th July, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge