

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.507 of 2026

Date of decision:23.09.2026

Vipin Kumar

...Petitioner

Versus

Ram Krishan & others

...Respondents.

Coram:

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

Whether approved for reporting?¹

For the petitioner : Mr. Abhinav Purohit, Advocate.

For the respondents : Mr. Tara Singh Chauhan, Senior Advocate with Mr. Surya Chauhan, Advocate.

Romesh Verma, Judge (oral):

The instant petition arises out of the judgment as passed by the learned District Judge, Bilaspur, District Bilaspur, H.P., dated 01.09.2026, whereby an appeal filed by the respondent-defendant No.1 was allowed and the order passed by the learned Civil Judge, Bilaspur, District Bilaspur, dated 12.05.2026, was reversed, whereby an application filed by the plaintiff-petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure was allowed.

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

2. The facts, as emerge in the present case are that the petitioner-plaintiff filed a civil suit for declaration and permanent prohibitory injunction, partition and separate possession against the respondents-defendants. It was prayed that preliminary decree for partition in respect of the ancestral land measuring 03-01 bighas along with the ancestral house consisting of six rooms by metes and bounds be passed and the plaintiff be declared entitled to a rightful share thereof. It was further prayed that a decree for separate possession of the plaintiff's share over the suit property be passed. Further, it was prayed that decree for permanent prohibitory injunction be passed in favour of the plaintiff and against the defendants.

3. Along with the suit, an application under Order 39 Rules 1 and 2 CPC was filed by the plaintiff-petitioner.

4. The suit came to be resisted by the respondents-defendants by filing comprehensive written statement and prayed for dismissal of the suit as false and frivolous. The defendants also filed a reply to the application under Order 39 Rules 1 and 2 CPC and prayed for the dismissal of the same.

5. The learned trial Court, vide its order dated 12.05.2026, allowed the application filed by the plaintiff-petitioner, whereby both parties were directed to maintain status quo with respect to possession and construction over the suit land till the final disposal of the main suit. Further, the parties were restrained from raising fresh

construction, changing the nature of the property or alienating any portion thereof during the pendency of the case.

6. Feeling dissatisfied, the defendant-respondent, Shri Ram Krishan, filed an appeal in the Court of the learned District Judge, Bilaspur, who, vide its impugned judgment dated 01.09.2026, accepted the appeal filed by the respondent and dismissed the application filed by the plaintiff-petitioner.

7. Feeling dissatisfied, the plaintiff-petitioner has approached this Court by invoking the provisions of Article 227 of the Constitution of India.

8. After arguing for some time, the learned counsel for the plaintiff-petitioner, on instructions, submitted that he may be permitted to withdraw the instant application filed by the plaintiff under Order 39 Rules 1 and 2 CPC with liberty reserved to the plaintiff to file a fresh application for the grant of injunction under Order 39 Rules 1 and 2 CPC before the learned trial Court.

9. In view of the statement made by the learned counsel for the petitioner, the petitioner is permitted to withdraw the instant application filed under the provisions of Order 39 Rules 1 and 2 CPC with liberty to file a fresh application for the same. As a result thereof, the judgment/order passed by the learned Courts below lose its efficacy.

10. The parties through their learned counsel are directed to appear before the learned trial Court on **29.09.2026**. In the event of filing any application under Order 39 Rule 1 and 2 CPC, the learned trial Court is directed to expedite the same and to take the same to its logical end in accordance with law.

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

(Romesh Verma)
Judge

23rd September, 2026.
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