

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

between the parties vide Registration No. 112/2019, dated 2nd November, 2019, is null and void and not enforceable.

3. The plaintiff/respondent No.1, as per paragraph 2 of the plaint, has alleged that in the year 2019, Akshey Sharma (defendant No. 2) and his friend, Amit Diwan (defendant No. 3), came to the house of the plaintiff and requested that the defendants wanted to take some land out of the share of the plaintiff on lease in order to run their business. Accordingly, the plaintiff agreed to the deal, and on 2nd November, 2019, a lease deed was got executed by defendant No. 1 vide registration No. 112/2019.

4. It has been contended that before finalisation of the lease deed, the contents of the same were never read out to the plaintiff either by the defendants, or the drafter, at that time. On the mutual understanding and willingness, the plaintiff had agreed to give his land in lease to the extent of 3 karnals. However, with mala fide intention and in connivance with the scribe, the lease deed was got executed in respect of the entire share falling to the share of the plaintiff, i.e., 12 karnals and 5 marlas, including the residential house situated over Khasra No. 289, land measuring 00-00-84 hectares, gair mumkin abadi, without the consent of the plaintiff.

5. It was further contended that the lease was executed for 12 years fraudulently, whereas the lease was to be executed, as finalized between the parties, for five years only. It is the case of the

plaintiff that defendant No. 1, with mala fide intention, had given only a sum of Rs. 30,000/- as advance lease money before the registration of the lease deed. Therefore, under such circumstances, the suit for declaration came to be filed by the plaintiff declaring the lease deed dated 1st November, 2019 as null and void.

6. The record shows that on 15th September, 2023, it was ordered by the learned Senior Civil Judge that the defendants stood duly served, but since none appeared on their behalf, they were proceeded against ex parte.

7. Along with the plaint, the plaintiff had also filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (CPC). The learned trial Court, vide its Order dated 1st May, 2024, allowed the said application and the defendants were restrained from changing the nature in any manner, transferring or alienating the suit land, and raising construction thereon till the final disposal of the suit.

8. In the meantime, defendants No. 1 and 3 (Meenakshi Sharma and Amit Diwan) filed an application under Order 9 Rule 7 read with Section 151 CPC for setting aside the ex parte order dated 15th September, 2023 passed by the learned trial Court.

9. After the passing of the order by the learned Senior Civil Judge, Dharamshala, dated 1st May, 2024, defendant Nos. 1 and 3

preferred an appeal in the Court of the learned District Judge, Kangra, on 29th May, 2024. The learned First Appellate Court, vide its impugned judgment dated 3rd June, 2025, dismissed the appeal filed by defendants No. 1 and 3.

10. Today, when the case was listed for arguments, the learned counsel for the petitioners apprised this Court that the application filed by the present petitioners/defendants No. 1 and 3 for setting aside the ex parte order dated 15th September, 2023 has been allowed, subject to payment of costs, and the defendants have been permitted to join the proceedings in the main suit.

11. In the present case, notices were issued for the service of respondent No. 1/plaintiff, and vide order dated 10th September, 2026, the said respondent No. 1 was proceeded against ex parte. Since defendant Nos. 1 and 3 had approached the learned trial Court for setting aside the ex parte order, and the order under Order 39 Rules 1 and 2 CPC was passed against them ex parte in their absence, it would be in the interest of justice that after setting aside the impugned judgment dated 03.06.2025 passed by the learned District Judge and the order passed by the learned trial Court dated 1st May, 2024, directions are issued to the learned trial Court to decide the application for interim injunction under Order 39 Rules 1 and 2 CPC afresh.

12. Consequently, since the plaintiff/respondent No. 1 has chosen not to contest the present proceedings and application filed by petitioners for setting aside the ex-parte order dated 15.09.2023 has been allowed, the impugned judgment passed by the learned District Judge, Kangra, dated 3rd June, 2025, and the order dated 1st May, 2024 passed by the learned Senior Civil Judge, Dharamshala, are ordered to be set aside, with a direction to the learned trial Court to decide the application under Order 39 Rules 1 and 2 CPC afresh, after affording an opportunity of hearing to the respective parties. The parties are directed to remain present before the learned trial Court on **18th September, 2026**.

13. Accordingly, petition stands disposed of in the aforesaid terms. Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

September 11, 2026
(Nisha)