IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 89 of 2023
Date of Decision : 24.04.2026

Sant Ram ...Petitioner

Versus

Jeet Singh & Ors. ...Respondent

Coram:

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

Whether approved for reporting?[1]

For the petitioner : Mr. Ashok K. Tyagi, Advocate and Ms. Divya Rajta, Advocate.

For the respondents : Mr. Karan Singh Kanwar and Mr. Ashok Kumar Advocates

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Romesh Verma, Judge(oral)

The present petition arises out of the impugned order as passed by the learned Senior Civil Judge, (Senior Division), Paonta Sahib, District Sirmaur, dated H.P. dated 13.03.2023,whereby an application filed by the petitioner under the provisions of Order 21 Rule 32 C.P.C has been dismissed.

2. Brief facts of the case are that the present petitioner filed a Civil Suit bearing No. 54/1 of 2005 in the Court of learned Civil Judge (Sr. Division), Court No.1. Paonta Sahib on 02.05.2005 for Permanent Prohibitory Injunction against the

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

present respondents. Admittedly, the said suit was decree by the learned Civil Judge (Senior Division), Court No.1 , Paonta Sahib, whereby decree for injunction was granted in favour of the petitioner by restraining the present respondents from digging and raising any construction over the suit land comprised in Khata No. 203, Khatuni No. 697, Khasra No. 3196/873 min measuring 4 biswas and Khatauni No. 698, Khasra No. 3196/873 min measuring 2 biswas, Kite 1, total mesuring 6 biswas, situated in Mauja Sherli Manpur, Tehsil Paonta Sahib, Up Tehsil Kamarau, District Sirmour, H.P.

3. It is admitted by the parties that the said judgment and decree was not assailed by the present respondents and the same has attained finality. The present petitioner pursuant to passing of the judgment and decree dated 03.03.2008, filed an application under Order 21 Rule 32 C.P.C. for execution of the decree against the present respondents on 25.02.2013. The copy of the application has been placed on record as Annexure P-3 in the present petition. As per the averments made in the application, it has been mentioned that the Judgment debtors /respondents on 20.07.2012 interfered in the suit land qua which the learned trial Court has passed the decree. It was further averred that on 20.02.2013, the Judgment

Debtors/respondents again started raising the construction over the suit land in order to occupy the entire land mentioned in the application. Therefore, it was prayed that judgment and decree dated 03.03.2008 which was passed by the learned Civil Judge (Senior Division),Court No.1 Poanta Sahib, District Sirmour, may kindly be enforced against the Judgment Debtors /respondents. The said execution was opposed/objected by the respondents by filing objection/reply to the said petition.

4. It was averred in the reply that Judgment Debtors never interfered in the suit land on the said dates as given in the application and all the contentions and averments as made in the application were refuted and denied. It was denied that Judgment Debtors carried any construction work over the land in question and they stopped the same after the intervention of the Decree Holder. The Judgment Debtors/respondents are the co-sharers over the suit land and they are in possession of the land as per their share so there was no occasion for interference in the said land. Therefore, it was prayed that application filed by the Decree Holder/petitioner may be dismissed.

5. The learned Executing Court framed the following issues on 01.05.2015:

1. Whether the JDs have intentionally and willfully disobeyed decree dated 03.03.2008 as alleged? OPDH
2. Final Order

6. The Decree Holder in order to substantiate its case examined himself as DHW-1 Sant Ram,DHW-2 Babu Ram and DHW-3 Dhanvir Singh in order to corroborate its case with respect to enforcement of the judgment and decree.

7. The present petitioner Sant Ram has entered into the witness box and he has stated that total suit land consisting of 6 biswas was joint land. He stated that on 20.07.2012, the Judgment Debtors tried to raise construction forcibly over the suit land. He further stated that on 20.02.2013 the judgment debtors again forcibly took the possession of the land and tried to construct the house over the same. He stated that still the Judgment Debtors are causing interference over the suit land and they should be restrained from doing so. In the cross-examination he has stated that out of the 6 biswas of the land, he was the owner of one biswa which has been purchased by him from Kamla, Sumitra, Babu Ram, legal representatives of Rattan Singh and over said 6 biswas, his house was situated which was purchased by him through registry and he further stated that house does not belong to him. The material admission as made by the Decree Holder in his cross-

examination is that the demarcation was conducted on the spot and one biswa land was found to be vacant.

8. Similarly, DHW-2 Babu Ram though tried to prove the case of the Decree Holder but nothing substantial has been said by him. The case of the petitioner hinges around the report of the Kanungo Ram Bhaj Sharma, who has entered into the witness box as DHW-4. He has stated that he had given the demarcation report, which is Ext.DH-1/DHW4. He has stated that the certified copies of the statements are Ext.DH-2/DHW4. He has further stated that he has given demarcation of Khasra No.3196/873 adjoining to which there was Khasra Nos. 725,726,727,66,65,864,865 and then stated that Khasra Nos.873 and 874 were also nearby but he has not referred in his report. He admitted that before demarcation jareb was required to be measured and thereafter three fixed permanent points are to be taken over the suit land and the consent in that regard is required to be taken, but in the present case, said consent of the parties has not been referred in his report. He further stated that the reference qua house being constructed on the suit land by the parties which has been made in the report was as per the investigation made on the spot.

9. In order to rebut the case of the Decree Holder, the Judgment Debtor (Jeet Singh) has entered into the witness box as RW-2 and has stated that after passing of the order by the Court, they had not raised any construction over the suit land rather the land was sold in favour of Atma Ram by Bhagat Singh and Bhim Singh measuring 1 biswa alongwith house, registry of which was Ext.PW2/A. During the cross examination, Judgment Debtor has agreed that vide order dated 03.03.2008, the construction was stopped over suit land and no one could construct or dig the suit land .

10. The learned trial Court dismissed the application filed by the Decree Holder by holding that the decree holder has failed to substantiate its case by leading cogent and authenticated evidence.

11. From the perusal of the record and evidence which has been led by the parties, this Court is not convinced that the Judgment Debtor raised the construction after passing of the judgment and decree which was passed against them. No material has been placed on record to establish and substantiate that after the passing of the judgment, the Judgment Debtors started any construction over the suit land. No particulars have been given in the application as well as in the evidence to show

that there is any defiance of the judgment passed by the learned Civil Judge (Senior Division) Paonta Sahib, District Sirmour. The statement of the Decree Holder, whereby he has admitted that on the spot one biswa land was found to be vacant, clinches the controversy in hand because as per the allegations as levelled by the Decree Holder, the Judgment Debtors are trying to raise construction over the said one biswa of the land. Once there is a categorical admission by the Decree Holder that one biswa of land is vacant over the spot then the case of the Decree Holder is falsified.

12. The Revenue Officer, who was examined by the Decree Holder has also admitted that one biswa land is vacant and he had given the demarcation and as such, construction was going on at the spot however, he did not have personal knowledge as to who was raising the said construction. The story as projected by the Decree Holder does not inspire confidence and the same is shaky and sketchy. In order to establish its case, the Decree Holder was required to place on record authentic and cogent evidence, however, he has failed to do so. The learned Executing Court has rightly appreciated the oral as well as documentary evidence placed on record,there is no infirmity in the impugned order.

13. Consequently, present petition being devoid of any merit deserves to be dismissed and is accordingly dismissed.

Pending application(s), if any, also stands disposed of.

(Romesh Verma),
Judge

24.04.2026 (veena)