IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No. 191 of 2018
Date of decision: 06.11.2026

Desh Raj …Petitioner

Versus

State of H.P. and Others …Respondent

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting? [1]

For the Petitioner.	*Mr. Ajay Sharma, Senior Advocate, with Mr. Atharv Sharma, Advocate.*
For the Respondents:	*Ms. Sharmila Patial, Additional Advocate General, for respondents No. 1 and 2.*
	Mr. Anil Kumar God, Advocate, for respondent No. 3.

Vivek Singh Thakur, Judge

This petition has been preferred against the order dated 31.07.2018, passed by Civil Judge, Barsar, District Hamirpur, H.P. in Civil Execution Petition No. 8 of 2011, titled *Desh Raj vs. State of H.P. & Others.*

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[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

2. Brief facts of the case are that suit filed by the petitioner/decree holder was decreed, vide judgment and decree dated 06.12.2000, passing a permanent prohibitory injunction, restraining the defendants/judgment debtors from digging, making school ground, changing the nature of the land, dispossessing the plaintiff/petitioner, or interfering in any manner over the suit land comprised in Khata No. 195, Khatauni No. 231, Khasra No. 797/498, measuring 5 Kanals 15 Marlas, as recorded in Jamabandi for the years 1992-93, now new Khata No. 195 min, Khatauni No. 231 min, Khasra No. 797/498/1, Kita 1, area measuring 1 Kanal 4 Marlas, situated in Tika Hatera, Tappa Pahlu, Tehsil Barsar, District Hamirpur, H.P.).

3. It is case of the petitioner that he filed an application for demarcation vide Missal No. 52/2010, titled *Desh Raj vs. Head Master, Primary School Bhota*, which was decided by A.C. 2nd Grade, Settlement Bhota vide order dated 12.05.2010. Thereafter, Field Kanoongo reported that respondent, i.e., Head Master, Government Primary School Bhota, had encroached upon 1 Kanal 4 Marlas of land belonging to the petitioner in Khasra No. 797/498/1. The said report was confirmed by A.C. 2nd Grade, Circle Bhota.

4. The petitioner had also got knowledge regarding the same and petitioner requested the respondents to hand over physical possession of the encroached portion, but of no use and, therefore, it was

alleged by the petitioner that the respondents had willfully, deliberately, and intentionally disobeyed the Judgment and Decree dated 06.12.2000 by raising construction over the suit land.

5. The respondents filed reply with submissions that Government Primary School Bhota was constructed in the years 1932-33, and in 1995, premises being in dilapidated condition, was reconstructed over the old foundations by respondent No. 3 (N.A.C. Bhota).

6. Respondents also submitted that in Civil Suit No. 139/1998/1995, the relief of mandatory injunction was categorically refused by the Court, and only decree for permanent prohibitory injunction was passed, and after passing of the decree, nothing has been done by the respondents. It has been further submitted on behalf of the respondents that petitioner had knowledge regarding existence of school right from 1932-33 through his predecessor and dilapidated premises was constructed by NAC Bhota and decree of mandatory injunction was categorically refused by the Court.

7. The petitioner filed rejoinder re-asserting and re-affirming the stand taken in the execution petition and denied the contrary averments made in the reply.

8. The petitioner appeared in the witness box as PW-1 to prove his claim for execution of the decree, passed in his favour. However, during his cross-examination, he categorically submitted that in

the year 1995, the Department had constructed rooms of the school and, further, that after 1995, no work/construction has been carried out on the spot. He further self-stated that in the year 1995, the building was finally constructed.

9. On the basis of the material and evidence on record, it has been concluded by the executing Court that there is nothing on record to establish that after passing of the decree dated 06.12.2000, respondents have encroached upon, dispossessed, or interfered with the possession of the plaintiff/decree holder in any manner.

10. Taking into consideration the aforesaid facts and circumstances and after going through the records of the case, I am of the considered opinion that no illegality, infirmity, or irregularity has been committed by the executing Court in dismissing the execution petition, as from the admissions of the decree holder himself, it is evidently clear that any encroachment, if any, on the land of the petitioner was atleast prior to 1995, whereas decree of injunction sought to be executed, was passed on 06.12.2000.

11. There is no decree passed for demolition or for handing over physical possession of the building, occupied by the school, belonging to the petitioner.

12. Consequently, there is no merit in the present petition and the same is accordingly dismissed.

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

(Vivek Singh Thakur),
Judge.

6th November, 2026
(Susheel)