(2026:HHC:13559)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 6504 of 2025

Decided on: 27.04.2026

Tilak Raj **.....Petitioner**

Versus

State of H.P and others **....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. B.M.Chauhan, Senior Advocate with Ms. Kamakshi, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General with Ms. Menka Raj Chauhan, Deputy Advocate General for respondents No. 1 to 4.

Mr. R.K. Bawa, Senior Advocate with Mr. Ajay Kumar Sharma, Advocate, for respondent No.5.

Jyotsna Rewal Dua, Judge

Heard learned counsel for the parties and considered the case file.

2. Respondent No.5 moved an application on 12.07.2018 (Annexure P-1) before the Assistant Collector 1st Grade (Rural), Shimla, H.P for carrying out demarcation of land comprised in Khewat No. 506, Khatauni No. 902,

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[1]Whether reporters of print and electronic media may be allowed to see the order? Yes.

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Khasra No. 3058/772, measuring 82.60 Sq. meters situated at Revenue Village Vikasnagar, Shimla, H.P.

2(i). The demarcation was carried out by the Competent Authority on 26.03.2021. During demarcation, petitioner, respondent No.5 and one Sh. Ramesh son of Sh. Nikju Ram made a joint statement as under (translation as supplied by learned counsel for respondent No.5):-

> "1). Statement of Shri Ramesh Pal, son of Anup Ram, resident of Vikas Nagar, Tehsil Shimla (Rural), aged-61 years.
> 2.) Statement of Shri Tilak Raj, son of Dhani Ram, resident of Vikasnagar, Tehsil Shimla (Rural), aged-66 years
> 3.) Statement of Shri Ramesh son of Nikju Ram resident of Vikasnagar, Tehsil Shimla (Rural), aged-69 years.
>
> On oath
> 26/3/2021
>
> It is jointly stated that today on 26/03/2021, the Patwari Halka and Girdawar kanungo and Assistant Collector II Grade Shimla (Rural) had jointly demarcated and measured land/ Arazi by fitakashi comprised in Kha. No.3058/772, measuring 82.60 Sq.mts situated in Chak Vikas Nagar in Case No.62/2019 in the presence of all the plaintiffs and defendants and fixed mauka jaat and marked the land in dispute between the parties and accept the same. We all accept and are totally satisfied with the demarcation. We accept the demarcation which is carried out. We have given the statements consciously and the statements have been given without any pressure from any side. Now there is no dispute between the parties. We are totally satisfied and in agreement with the contents of the statements and have signed the same after reading and understanding the same."

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In terms of their joint statement, all the three individuals including the petitioner and respondent No.5 expressed their agreement with the demarcation conducted on the spot. The demarcation was confirmed on 26.03.2021 by the Assistant Collector,IInd Grade.

2(ii). The petitioner laid challenge to the aforesaid demarcation by preferring an appeal under Section 14 of the H.P. Land Revenue Act, 1954 (hereinafter referred to as the Act). The appeal was dismissed by the Collector, Shimla on 02.05.2024.

Feeling aggrieved, petitioner next filed Revision Petition under Section 17 of the Act. The Revision Petition was also dismissed by the Financial Commissioner (Appeals), H.P. on 24.02.2025. It is in the above background that petitioner has instituted this writ petition seeking following substantive reliefs:-

> (i) That the writ in the nature of certiorari may kindly be issued for quashing orders dated 24.02.2025, 02.05.2024 and 25.03.2021 passed by respondents No. 2 to 4, respectively.
> (ii) That a writ in the nature of mandamus may kindly be issued directing respondent No.4 to conduct the demarcation of Khasra No. 3058/772 afresh as per the application moved by respondent No.5 after associating the petitioner and doing videography and justice be done."

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3. Learned Senior Counsel for the petitioner submits that in the instant case directions are required to be issued to respondent No.4 to conduct fresh demarcation on the application moved by the respondent No.5 after duly associating the petitioner in accordance with law. It was contended that though the petitioner had agreed to the demarcation that was conducted on the spot, but in the order passed by Assistant Collector, IInd Grade, there is some reference to the existence of a drainage over the passage between two buildings. This reference was uncalled for since the Competent Authority was only required to carry out the demarcation and nothing else.

4. In my considered view, no case of interference is made out:-

4(i). It is a matter of record that a civil suit was instituted by respondent No.5 against the petitioner seeking permanent prohibitory injunction with the assertion that respondent No.5 (plaintiff therein) was owner in possession of land comprised in Khewat No.299/283, Khatauni No. 755/749, Khasra Nos. 785, 786 and 789, measuring 232.55 Sq. meters and Khewat No. 302, Khatauni No. 760, Khasra No.3058/772, measuring 82-60 Sq. meters situated at Mohal Vikasnagar, Shimla, H.P. Plaintiff’s grievance was that

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defendant (present petitioner) was owner of land adjoining to suit land i.e. Khasra No.3058/772 measuring 82-60 Sq. meters. That defendant was threatening to encroach over the suit land. Present petitioner (defendant) filed counter claim in the civil suit. Vide judgment and decree dated 28.07.2017, the civil suit was dismissed and counter claim was allowed. The copy of judgment and decree was placed on record during hearing of the case. Two appeals were preferred by respondent No.5 before the Learned District Judge. During pendency of appeals, compromise was reached between the parties. On the basis of said compromise, both appeals were disposed of vide order dated 09.01.2018 as under:-

> "Today, the present appeal alongwith appeal No.33-S/13 of 17 is listed for conciliation. Both the parties have compromised both the appeals and filed written compromise Ex.CA. The contents of compromise Ex.CA are read over and explained to both the parties in the open Court in presence of learned counsel for the parties. Parties have admitted the contents of compromise, thereafter, their statements in support of compromise Ex.CA are separately recorded and taken on record.
>
> As per compromise Ramesh Pal appellant will obtain demarcation of his own land in presence of Tilak Raj and after fixation of permanent boundary, both the parties will jointly raise wall in between their lands. The expenses of boundary wall will be born by both the parties in equal share. Apart from this, the parties have also agreed not to throw dirty water in the lands of each other and they will maintain good relation in near future. In case, any of

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> the party is not complying the terms and conditions of compromise Ex.CA, the other party is having right to get the compromise executed by filing execution petition before the learned trial court.
>
> After giving considerable thought to the compromise deed Ex.CA and the statements of parties, this court has come to the conclusion that the parties have lawfully compromised the present matter. Since the matter has been compromised by parties, the decree passed by the learned trial court is set aside. Compromise decree be drawn accordingly. Compromise Deed Ex.CA and statements of parties shall form part of compromise decree. Let signed cop0y of this order be placed on record of appeal No.33- S/13 of 2017. Let authenticated copy of this order alongwith photo-state copy of compromise deed and statements of parties be sent to the learned trial Court along with record forthwith, while the record of present appeal as well as appeal No.33-S/13 of 2017 be consigned to the record room, after doing needful."

4(ii). Pursuant to above, respondent No.5 moved an application before the Competent Authority for conducting the demarcation of suit land comprised in Khasra No. 3058/772. It is an admitted fact that demarcation was carried out on 26.03.2021 by the Competent Authority in presence of petitioner, respondent No.5 and one another person. During demarcation, all three persons including petitioner and respondent No.5 categorically jointly stated that they had consented to the demarcation process. They accepted the demarcation & had no dispute whatsoever in that regard. The Assistant Collector, IInd Grade confirmed the

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said demarcation vide order dated 26.03.2021. Learned Senior Counsel for the petitioner endeavoured to make out a case that there was no occasion for the Assistant Collector, IInd Grade to record in the order dated 26.03.2021 about there being a drain (Nali) existing between the two houses. The order passed by the Assistant Collector, IInd Grade on 26.03.2021 goes as under (translation as supplied by learned counsel for respondent No.5):-

> "Order:-
>
> In the application for demarcation under Section 107 of the Himachal Pradesh Land Revenue Act, Misal No.62/2019, Ramesh Pal vs. Tilak Raj, resident of Vikasnagar, the Girdawar arrived at the site with the Halka Patwari to demarcate the land plot of Khasra No.3058/772, measuring 82.60 Sq. meters. The parties are present at the spot. At first mustkil maujazat were established with the help of copy of the Musavi and other documents, which both the plaintiff and defendant accepted as valid. Subsequently, the above-mentioned Khasra number was measured with fitakashi with the help of copy of the Musavi. Khamburjis were fixed on each pillar/khumb, and the distance from one pillar to the other was confirmed with batar simultaneously. The demarcation was carried out by determining/fixing the points using the triangular system. That both the parties have seen and understood the boundaries of the above-mentioned Khasra number very well. On the spot, the dispute was found on the drain made between the two buildings which is about 6" wide. With the consent of both the parties, iron angles were fixed leaving 3"-3" inches in the middle of the 6" wide drain between the two buildings. Both the parties agreed on this. Regarding the aforesaid, the statements of the plaintiff and the defendant were recorded which is included/placed in the Misal/file.

> Hence, there is no need for any further proceedings in the Misal. The file after completion be consigned to record room.
> Was narrated."

Reference to the drain (nali) has come in the order as the Assistant Collector, II[nd] Grade, who was present on the spot during demarcation, had to demonstrate that the demarcation was carried out in accordance with law, points were fixed before conducting demarcation. In the case in hand, while carrying out demarcation, iron angles were fixed leaving 3"-3" inches in the middle of 6" wide drain between the two buildings for carrying out demarcation, therefore, reference about the existence of drain (nali) between the two buildings has come in the order. It is not in dispute that such demarcation was with consent of the parties & parties had accepted the same as also the process that led upto the carrying out of demarcation.

Having accepted the demarcation, it is even otherwise not permissible for the petitioner to circumvent the same in view of Sub-Section 7 that was incorporated in Section 107 of H.P. Land Revenue Act by way of Amendment Act, 2023 as under:-

> "**107. Power of Revenue Offiers to define boundaries**.-
> (1)...

(2)...
(3)...
(4)...
(5)...
(6)...
(7). If all the interested parties have agreed to and accepted the limits defined by the Revenue officer under sub-Section(1) and objections have not been raised by any of the interested party during the proceedings, no appeal shall lie against the order of the Revenue Officer in such proceedings."

5. For the foregoing reasons, there is no merit in the writ petition and same is accordingly dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

Jyotsna Rewal Dua
Judge

April 27, 2026
yogesh