IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 188 of 2026
Date of Decision: 26.10.2026

Uttam Chand ...Appellant.

Versus

Santosh Kumari & others ...Respondents.

Coram
Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?[1]

For the appellant : Mr. Rajesh Mandhotra, Advocate.

For the respondents: Mr. V.S.Chauhan, Senior Advocate with Mr. Arsh Chauhan, Advocate.

Mr. Baldev Singh Negi, Additional Advocate General.

Romesh Verma, Judge (oral)

The present regular second appeal arises out of the judgment and decree dated 24th March, 2026, as passed by learned Additional District Judge-I, Kangra at Dharamshala, District Kangra, H.P., whereby the appeal filed by the plaintiff/appellant, Shri Uttam Chand, was dismissed, affirming the judgment and decree passed by the learned Senior Civil Judge (Court No. 1), Kangra, District Kangra, H.P., dated 25th February 2020, whereby the suit for possession filed by the appellant/plaintiff was dismissed.

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

2. The facts as emerge in the present case are that the plaintiff instituted a civil suit for possession against the defendants on the ground that he is absolute owner of the land comprised in Khasra No. 1256/448. As per the case set up by the plaintiff, the defendants occupied a portion of the suit land in the first week of April 2007. Consequently, the plaintiff sought possession of the encroached land measuring 0-00-17 sq. metres from the defendants distinguished as Field No. 1256/448/1, comprised in Khata No. 346, Khatauni No. 416, Khasra No. 1256/448, as per Jamabandi for the year 2006–2007, situated at Mohal Hatwas Khas, Mauza Hatwas, Tehsil and District Kangra, H.P.

3. The suit was contested by the defendants by filing written statement, raising therein preliminary objections regarding maintainability, cause of action, and estoppel etc. On merits, all material averments made in the plaint were specifically refuted and denied. It was submitted in the written statement that no encroachment has been made by the defendants over the suit land and that the suit has been filed without any cause of action and the same has been filed just to harass them.

4. The learned Trial Court framed the issues on 2nd August 2011 in the following manner:-

> *"1. Whether plaintiff is entitled for the possession of land bearing khasra No.1256/448/1, area measuring 0-00-17 hectares as per demarcation report given by Tehsildar, Kangra, as prayed for ? OPP*
>
> *2. Whether the suit is barred due to application of principle of estoppel, as alleged ?OPD*
>
> *3. Whether the demarcation report given by Tehsildar is not valid, as alleged ?OPD*
>
> *4. Whether plaintiff has got no cause of action, as alleged ?OPD*
>
> *5. Whether suit of the plaintiff is not maintainable, as alleged ?OPD*
>
> *6. Relief ?"*

5. The learned trial Court directed the respective parties to lead evidence in support of their contentions and vide its judgment and decree dated 25th February 2020, dismissed the suit filed by the plaintiff.

6. Feeling dissatisfied, the plaintiff preferred first appeal under Section 96 of the Code of Civil Procedure before the learned Additional District Judge (Court No. 1), Kangra at Dharamshala, District Kangra, H.P. on 6th June 2020. The learned First Appellate Court dismissed the appeal as filed by the plaintiff and affirmed the findings of the learned trial Court.

7. Still feeling aggrieved, the plaintiff/appellant preferred the present Regular Second Appeal under Section 100 of the Code of Civil Procedure.

8. This Court had issued notice in the matter on 27th July 2026. Thereafter, in the presence of learned counsel for the parties,this Court on 18.09.2026 had passed the following order:

> *"In the present case, primarily there is a boundary dispute inter se the parties. This matter was heard for some time on 17th September, 2026. Today, when the case was called, it has been jointly requested by learned counsel for the parties that in order to adjudicate the matter in hand, the suit land can be demarcated with the aid of the revenue authority so that the truth may come out.*
>
> *It has been contended jointly by learned counsel for the parties that Shri Anirudh R.H. Sharma, Advocate may be appointed as the Local Commissioner, who shall be assisted by the revenue authority of the concerned area, namely Mohal Hatwas Khas, Mauza Hatwas, Tehsil Nagrota Bagwan, District Kangra, HP.*
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> *Consequently, Shri Anirudh R.H. Sharma, Advocate, is appointed as Local Commissioner to demarcate the suit land comprised in Khata No. 346, Khatauni No. 416, Khasra No. 1256/448, situated at Mohal Hatwas Khas, Mauza Hatwas, Tehsil Nagrota Bagwan, District Kangra, H.P.*
>
> *The Local Commissioner is directed to demarcate the suit land with the aid of the revenue officer and shall determine on the spot whether there is any encroachment on behalf of either side. The said fact shall be specifically and clearly mentioned in the report.*
>
> *Tehsildar, Nagrota Bagwan, is directed to depute the concerned Patwari and Kanungo in order to assist the Local Commissioner for execution of the commission.*
>
> *The revenue officers who shall be appointed by the Tehsildar for assistance of the Local Commissioner shall contact Shri Anirudh R.H. Sharma, Advocate in advance. After giving advance telephonic information to both the parties, the suit land shall be demarcated and the report shall be submitted before this Court within a period of four weeks from today.*
>
> *The fee of the Local Commissioner shall be borne by the present appellant. The parties agree that a sum of Rs. 25,000/- shall be paid by the appellant to the Local Commissioner, Shri Anirudh R.H.*

> *Sharma, Advocate. The said amount shall be paid to Shri Anirudh R.H. Sharma before conducting the demarcation.*
>
> *The conveyance and lodging of the Local Commissioner shall also be borne by the appellant.*
>
> *Since a consent order is being passed by this Court, therefore, it is made clear and also agreed upon by the respective parties that the outcome of the demarcation shall be acceptable to both sides, and none of the parties shall object or file any kind of objection to the same. Mr. Baldev Singh Negi, learned Additional Advocate General is directed to supply a copy of this order to the Tehsildar, Nagrota Bagwan, for doing the needful.*
>
> *For report/compliance, list the matter on 26th of October, 2026."*

9. With the consent of the parties, Shri Anirudh R.H. Sharma, Advocate, was appointed as the Local Commissioner with the express consent of both the parties, and it was made clear that none of the parties shall file any objection to the report which shall be submitted by the Local Commissioner.

10. In pursuance to the directions passed by this Court, Sh. Anirudh R.H.Sharma, Advocate visited the spot on 22nd October 2026 in the presence of the respective parties and he has placed on record copy of the demarcation report, and the conclusion of the report reads as follows:

> *"In this manner outer Boundary /wall of Khasra no. 1256/448 is fixed on the spot. As per measurement the wall erected by Sh. Uttam chand is found correct and no encroachment is found over Khasra No. 1256/448 on the spot. All the parties are satisfied with the demarcation and their statement to this effect is also recorded."*

11. As per the report of the Local Commissioner, on the basis of the measurement which was made by him with the able

assistance of the revenue authorities, the wall erected by Shri Uttam Chand, the present appellant, was found to be correct and no encroachment of any kind was found over the suit land, especially Khasra No. 1256/448 on the spot.

12. Since the dispute pertains to only this controversy whereby the appellant had alleged the encroachment to have been made by the respondents over the suit land, and there is a categorical conclusion in the report of the Local Commissioner that no encroachment was found over the suit land, therefore, under such circumstances, the findings which have been returned by the learned courts below are valid, legal and sustainable which stood affirmed by the learned First Appellate Court. These are concurrent finding of facts returned by the learned Courts below and the same does not call for any interference. The present appeal being devoid of any merit deserves to be dismissed

13. The appeal is accordingly dismissed. Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

October 26, 2026 (Nisha)