IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.705 of 2025 a/w
LPA No.774 of 2025
Decided on : 27.10.2026

1. LPA No.705 of 2025

Kamla Devi ...appellant.

Versus

Ram Singh and Ors. …Respondents

2. LPA No.774 of 2025

Kamla Devi ...appellant.

Versus

Shashi Kumar and Ors. …Respondents

Coram

Hon'ble Mr. Gurmeet Singh Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the appellant(s) : Mr. Bhuvnesh Sharma, Sr. Advocate with Ms. Vaishali Lakhanpal and Mr. Shekhar Badola, Advocates in both the appeals.

For the respondent(s) : Mr. R.K. Sharma, Sr. Advocate with Mr. Arun Kumar Kaushal, Advocate, for respondents No.1 to 9 in both the appeals.

Mr. Pranay Pratap Singh, Addl. Advocate General, for respondents-State in both the appeals.

Bipin Chander Negi, Judge

Both these appeals arise out of the common judgment dated 31.07.2025 passed by the learned Single Judge in CWP No.1337 of 2017 and CWP No.1338 of 2017,

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

hence, the same are being disposed of vide this common judgment.

2. The present appellant had filed an application under Section 35 read with Section 37 of the Himachal Pradesh Land Revenue Act, 1954 for correction of dimensions of Khata Khatauni No.28/45, Khasra Nos.68, 69, 70, 55, and 57 (old) Kitta 5, (Corresponding new Khasra numbers are 224, 227, 230 and 231) situated in Village Purandyal, Mouza Bal-duhak, Tehsil Nadaun, District Hamirpur, before the Settlement Collector, Kangra at Dharamshala. A copy of the application is available as Annexure P-1/T (at page 16 of the writ paper book in CWP No.1337 of 2017).

3. The aforesaid application submitted by the appellant was forwarded to the field agency under Section 18(3) of the H.P. Land Revenue Act, 1954 for spot inquiry and report. On receipt of the report, the Settlement Collector, Kangra at Dharamshala accepted the application and allowed the correction vide order dated 16.10.2012.

4. Two appeals were preferred against the said order by respondents No.1 to 4 and respondents No.5 to 9 in LPA No.705 of 2025 before the Divisional Commissioner, Mandi. The same were heard and dismissed vide common judgment

dated 23.12.2014 (Annexure P-3 of the writ paper book in CWP No.1337 of 2017, at pages 21-25). Thereafter, two revision petitions preferred by respondents No.1 to 4 and respondents No.5 to 9 in LPA No.705 of 2025 were disposed of vide common judgment dated 22.04.2017 by the Financial Commissioner (Appeals), Himachal Pradesh, Shimla. Against the same, two writ petitions bearing CWP No.1337 of 2017 and CWP No.1338 of 2017 were preferred by respondents No.1 to 4 and respondents No.5 to 9 in LPA No.705 of 2025, respectively.

5. Insofar as present respondents No.5 and 6 in LPA No.705 of 2025 and the present appellant are concerned, *inter se* the parties, there existed a civil dispute, as respondents No.5 and 6 in LPA No.705 of 2025 had filed a civil suit for declaration and fixation of boundaries by way of demarcation against the present appellant. The dispute inter-se the parties pertained to old Khasra No.92 (new Khasra numbers being 232, 237, and 238), situated in Village Purandyal, Mouza Balduhak, Tehsil Nadaun, District Hamirpur, HP. The said suit was instituted on 05.11.1998 and came to be dismissed on 26.09.2008 by the learned Civil Judge (Junior Division) Nadaun, District Hamirpur, HP. The learned trial Court had

dismissed the suit on the ground that the matter regarding correction of area of the land of the present appellant was *sub judice* before the Settlement Officer, Dharamshala (The judgment of the learned trial Court is placed at page 207 of the paper book).

6. However, on appeal being preferred against the judgment dated 26.09.2008 passed by the learned Civil Judge (Junior Division), the appeal preferred by present respondents No.5 and 6, in LPA No.705 of 2025, was partly allowed vide judgment dated 01.09.2010 (Judgment of the First Appellate Court is placed at page 228 of the Letter Patents Appeal paper book in LPA No.705 of 2025). The First Appellate Court restrained the present appellant from interfering in old Khasra No.92 as she had no title to the same. However, the injunction so granted was made subject to the increase or decrease of area which, according to the First Appellate Court, would be arrived at ultimately by the settlement authorities.

7. Feeling aggrieved by the judgment passed by the First Appellate Court, Regular Second Appeal bearing RSA No.487 of 2010 was preferred by the present appellant. The same was decided on 02.03.2023. A copy of the said order is Annexure

P-9 (at page 239 of the Letters Patent Appeal paper book in LPA No.705 of 2025).

8. The writ petitions wherefrom the present appeals arise were admitted by the learned Single Judge on 30.08.2017. The Regular Second Appeal, stated supra, preferred by the present appellant (RSA No.487 of 2010) was also tagged along with the writ petitions, and the interim order dated 21.06.2017 passed in the writ petitions was made absolute on 30.08.2017, staying the operation of the order dated 22.04.2017 passed by the Financial Commissioner (Appeals) [Annexure P-4 of the writ record].

9. Before the learned Single Judge, parties were of the view that the dispute *inter se* the parties could be put to an end in case the Settlement Officer, Kangra was directed to reconsider the correction application dated 29.12.1995 (Annexure P-1/T, page 16 of the writ record in CWP No.1337 of 2017) by carrying out fresh measurement of the holdings of the parties by comparing the same with the old as well as the new *shajra*. In the aforesaid backdrop, vide order dated 23.09.2019 (reproduced in the impugned judgment of the learned Single Judge), the Settlement Officer, Kangra was directed to carry out a fresh measurement of the properties of the parties,

keeping in view the correction application filed by the present appellant and after hearing all the parties to the dispute.

10. In pursuance of the aforesaid direction, spot report dated 02.12.2019 was got prepared by the Settlement Officer, Kangra Division at Dharamshala (page 117 of the Letters Patent Appeal paper book in LPA No.705 of 2025). From a perusal of the same, it is evident that the basis of the order of the Settlement Collector dated 16.10.2012, i.e., the report of the Assistant Settlement Officer dated 22.07.1998, was found to be contrary to the spot position and the old map. As a result whereof, in the report dated 02.12.2019, specifically in paragraph 7 thereof it was pointed out that the area of the appellant had increased to the extent of 1-13 kanals, whereas the area of Ram Singh and others had decreased to the extent of 0-10 kanals, and the area of Shashi Kumar and others had decreased to the extent of 0-16 kanals in comparison to the old area.

11. The report dated 02.12.2019 had been prepared after a spot visit conducted on 04.11.2019, whereat all parties were present. Besides the aforesaid, on the spot visit, measurements were effected after examining both the old and new revenue records on the spot. Measurements in

accordance with the revenue record and on the spot were done in front of all concerned parties. The same is evident from the affidavit filed by the Settlement Officer, Kangra Division at Dharamshala. Relevant extract whereof reads as follows (Page 49 of the writ paper-book in CWP No.1337 of 2017):

> *"After receipt of the order passed by the Hon'ble court, the date was fixed for spot visit on 4-11-2019. In pursuant to intimation qua spot visit on 4-11-2019. All the interested parties were present. Thereafter measurement was effected after going through the old and new record on the spot. The report was prepared which is annexed as Annexure R-1 and proposed spot map as Annexure R-II, Naksha Tafavat as Annexure R-III. The measurement was carried out by comparing old record for the year 1911-1912 Annexure R-IV and consolidation map for the year 1980-1981 as Annexure R-V"*

12. The Settlement Officer, Kangra Division at Dharamshala, who prepared the report dated 02.12.2019, strictly acted in accordance with consent order dated 23.09.2019. No fault can be found in this respect, as he has acted within the prescribed parameters laid down by the order dated 23.09.2019.

13. As has already been stated supra, *inter se* respondents No.5 and 6 and the appellant, there was a civil dispute which pertained to old Khasra No.92, corresponding to new Khasra No.232, 237, and 238. From the report dated 02.12.2019 (pages 117–127 of the Letters Patent Appeal paper book in LPA No.205 of 2025), especially Clause 8(xvii), it is evident that changes in Khasra No.238 had been ordered. Relevant extract whereof reads as follow:

> *"8(xvii). Area of Khasra No.238 is to be entered as 0-39-32 hectare in place of 0-39-60 hectare, out of which proposed sub khasra No.238/1 measuring 0-00-38 hectare, being part of old khasra No.70 is to be excluded from khata/khatouni No.12/16 ownership of Shashi Kumar etc. and included in khata/khatouni No.29/41 is ownership of Smt. Kamla Devi whereas khasra No.238/2 measuring 0-38-94 hectare, being part of old khasra No.92, proposed to be entered in khata/khatouni No.12/16 in ownership of Shashi Kumar etc."*

14. Based on the aforesaid, the present appellant had withdrawn RSA No.487 of 2010 on 02.03.2023, as is evident from the order placed on record. (page 239 of the Letters

Patent Appeal paper book in LPA No.705 of 2025). The withdrawal had specifically been made on account of subsequent orders passed by the revenue authorities with regard to correction of the record. Hence, it is evident that after the passing of the report dated 02.12.2019, the same had been accepted by the appellant, who consequently withdrew the Regular Second Appeal.

15. After withdrawal of the Regular Second Appeal, the present appellant preferred belated objections on 01.05.2024 to the report dated 02.12.2019, which are placed at pages 100 to 109 of the writ record in CWP No.1337 of 2017. As has already been noticed supra, insofar as Khasra No.238 is concerned, the appellant had accepted the report dated 02.12.2019 and withdraw the Regular Second Appeal preferred. In the aforesaid backdrop, the appellant cannot be permitted to accept the report in piecemeal.

16. A perusal of the report reflects that the same pertains to Khasra Nos. 197, 205, 206, 210, 211, 215, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 238, and 240. Other than the aforesaid, from a perusal of the report, it is evident that the order of the Settlement Collector dated 16.10.2012, which was based on the report of the Assistant

Settlement Officer dated 22.07.1998, was contrary to the spot position and the old map. As a result whereof, the area of the appellant had increased and that of the respondents had decreased. The report dated 02.12.2019 comprehensively dealt with the aforesaid increase/decrease and the adjustments which were required to be made in the revenue record. As has been already stated supra in para 11 the report dated 02.12.2019 had been prepared after seeing the relevant record and the spot.

17. The writ court is not an appellate court. Hence in a writ court a finding of fact returned by an authority cannot be reopened or questioned. An error of law which is apparent on the face of the record which has resulted in manifest injustice can be corrected by a writ court. For an error of fact to qualify as an error of law it must be shown that in recording the said finding, admissible and material evidence has been ignored, or inadmissible evidence has been taken into account or the finding of fact is based on no evidence. Once the finding of fact is based upon some material which are relevant, then the same cannot be set-aside on the ground that the materials or evidence are not sufficient or credible. As already stated supra findings of fact returned by the Settlement Commissioner in

the case at hand are based on relevant revenue record, a spot inspection wherein all were present and measurements were done in the presence of all concerned. (See ***Yakoob* v. *K.S. Radhakrishnan, AIR 1964 SC 477***)

18. In view of the above, we find no ground or reason warranting interference with the well-reasoned judgment passed by the learned Single Judge. Consequently, both the appeals are dismissed. Pending application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

27th October, 2026
(Gaurav Rawat)