IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.R No.3 of 2025

Decided on : 28.04.2026

Shashi Bala (deceased) through her LR Pardeep Kumar Gupta
...Petitioner

Versus

Shashi Kumar **...Respondent**

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting?[1]

For the petitioner:	Dr. Sahil Malhotra, Advocate.
For the respondent:	Ms. Kamlesh Kumari, Advocate, vice Mr. A.S. Rana, Advocate.

Jiya Lal Bhardwaj, Judge *(Oral)*

The petitioner, who is defendant before the learned trial Court, has laid challenge to the order dated 08.11.2024, passed by the learned Senior Civil Judge, Nurpur, District Kangra, H.P., in **CMA No.714/2024**, in **Civil Suit No.19/2014**, titled, **Shashi Kumar vs. Shashi Bala**, whereby the application filed by her to produce additional evidence, was rejected.

2. The facts, which emerge from case file are that the

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

respondent/plaintiff has filed a suit for vacant possession of the suit land in the year 2014, on the plea that he is a co-sharer/co-owner of the land comprised in Khata No.436, Katauni No.540, Khasra No.26, measuring 30-45 sq. meters situated in UP Mohal Rampuri, Mauza Nurpur Town, Tehsil Nurpur, District Kangra, H.P., as per Jamabandi for the year 2007-08. It has been averred that co-owner Deepak alias Deepak Sehgal had sold his entire half share in the suit land detailed above, vide registered sale deed to one Rakesh Kumar S/o Hans Raj and Naresh Kumar S/o Parkash Chand, both residents of Ward No.2, Nurpur Town, Tehsil Nurpur, District Kangra, H.P. Besides this, one Rakesh alias Vijay, S/o Mehar Chand, who had purchased a share, is also a co-sharer in the joint khata and the land mentioned above is jointly owned by the plaintiff, Rakesh Kumar, S/o Sh. Hans Raj, Naresh Kumar, S/o Parkash Chand and Rakesh Kumar alias Vijay. The petitioner, is neither a co-owner in the suit property nor has got any legal right to retain illegal and unauthorized possession of the suit land.

3. The petitioner filed the written statement to the Civil Suit and took preliminary objections qua maintainability, cause of action, locus standi etc. It was averred that she is in lawful possession of the suit land and one Sh. Deepak Sehgal, S/o Sh. Kishori Lal Sehgal had entered into an agreement for sale of the suit land on 25.06.1997 for a total consideration of Rs.20,000/-, which was duly received by said Deepak Sehgal, who was owner and in exclusive possession of the suit land and had right to enter into an agreement for sale of the suit land. The possession of the suit land was also delivered on the same date to the petitioner and since then, she is in lawful and permissible possession, as per agreement dated 25.06.1997.

4. It is further pleaded in the written statement that the fact of purchasing the suit land had also been admitted by the respondent in **Civil Suit No.189 of 2001,** titled, ***Shashi Kumar vs. Rakesh Kumar and ors.,*** in which the petitioner was also party as defendant No.3 and the said suit was decided on 26.02.2008. The respondent has admitted all the facts regarding

agreement, possession and even admitted that the petitioner is co-owner in the suit. The petitioner in the alternative has taken a plea that the possession has ripened and she has acquired ownership by way of adverse possession.

5. The learned trial Court after framing the issues, recorded the evidence of the respondent and thereafter the evidence of the petitioner was recorded and closed vide order dated 09.10.2023. Subsequent to the closure of the evidence of the petitioner, an application was preferred under Section 151 of the Code of Civil Procedure seeking permission to adduce additional evidence, namely:-

> *"(i) Summoning of Record Clerk of Judicial Record Room, Nurpur, along with Original Case File of Civil Suit consisting of Plaint, Plaintiff Evidence and Original Agreement to Sell dated 25/06/1997;*
>
> *(ii) Summoning of Ahalmad of the Court of Civil Judge, Junior Division, Nurpur along with original case file of Civil Suit No.167/2015 Now fixed for dated 08/01/2024 consisting of Plaint and Issues Framed in the matter."*

6. It was averred in the application that the production of the original case file of Civil Suit No.189 of 2001 is of paramount importance for the proper adjudication of the

dispute as the respondent set up two contradictory stands and tried to approbate and reprobate in the same breath. The relevant facts of the matter are that the respondent was having express knowledge about the execution of unregistered sale agreement and subsequent delivery of physical possession to the petitioner after the entire sale consideration was paid and the respondent was aware of the raising of construction over the suit property. The production of original case file of Civil Suit No.167/2015 will prove the factum that a suit for specific performance is sub-judice before the Court of Civil Judge, Junior Division, Nurpur, pertaining to the same land and shall assist the Court in the proper adjudication of the present dispute between the parties.

7. The respondent filed reply to the application and averred that the application is not legally maintainable and the same has been filed with an ulterior motive to prolong the litigation. The evidence has been led by the petitioner. So far as the question of calling record of the Civil Suit is concerned, the

same is admitted by the petitioner in her pleading and in affidavit Exhibit DW/A dated 09.11.2023. On merits, it was denied that there was any execution of the unregistered Agreement to sell dated 25.06.1997 by Deepak Sehgal.

8. The learned trial Court, vide order dated 08.11.2024, has rejected the application, taking note of the fact that the petitioner had sufficient opportunity to lead evidence, which was closed on 09.10.2023 and the documents were well within the knowledge of the petitioner and it was a duty cast upon her to produce these documents at the time of filing the written statement and before commencement of the trial. Further, the petitioner has not explained why she could not file them at the earlier stage when the documents were well within her knowledge nor she has explained how these documents are necessary for proper adjudication of the case. It was also recorded by the learned trial Court that the petitioner had not produced any document which *prima facie* shows that she had taken any bona fide steps to obtain the copies of these

documents at an earlier stage. In case the petitioner is permitted to produce these documents in evidence, it will amount to reopening the trial at the stage of arguments, which is not permissible in law. The petitioner had failed to prove that despite due diligence, she could not produce these documents at an earlier stage.

9. I have heard the learned counsel for the parties and also perused the record carefully.

10. It is not in dispute that the suit has been instituted in the year 2014 by the predecessor-in-interest of the petitioner, namely Shashi Bala, and she while filing the written statement had taken the plea that she had purchased the land from Deepak Sehgal and further the suit instituted earlier was decided on 26.02.2008. It is only after filing the suit by the respondent, the predecessor-in-interest of the petitioner has filed a suit for specific performance of the unregistered agreement dated 25.06.1997 and thus the petitioner was aware about both the facts before leading the evidence.

11. Learned counsel for the petitioner has vehemently argued that before filing the instant application, an attempt was made to requisition the record of Civil Suit by preferring an application on 18.03.2023, before closing the evidence on 09.10.2023. However, the learned trial Court had dismissed the said application. Since the petitioner was taking steps, the finding returned by the learned trial Court that she had not taken steps are unsustainable**.** However, the fact of the matter is that in case the application moved by the petitioner was rejected, the best course available to her was to lay challenge to the said order before the competent Court of law. Once the petitioner did not lay challenge to the order and further the aforesaid facts were well within the knowledge of the petitioner, before closing her evidence, the learned trial Court has not committed any illegality while rejecting the application filed by the petitioner.

12. Learned counsel for the petitioner has argued that since the evidence which is sought to be produced is relevant

for the proper adjudication of the matter, the trial Court has committed illegality while rejecting the application. So far as this contention is concerned, once ample opportunity was granted to the petitioner to lead evidence and further the evidence was closed on 09.10.2023, in case the application is allowed at this stage, it will only prolong the litigation, more especially when the suit filed by the respondent was instituted in the year 2014. Learned counsel has placed reliance upon the judgment passed by this Court in **CMPMO No.126 of 2025**, titled ***Harish Kumar vs. Naresh Kumar***, decided on 10.09.2025, to contend that this Court had been pleased to allow the application after closing of the evidence for leading evidence, which was the original Will in issue. No doubt, as per the judgment passed by a Coordinate Bench of this Court, the application for additional evidence can be allowed at any stage, but at the same time, since the petitioner was granted ample opportunity to lead evidence and further the petitioner was aware about the evidence which was sought to be adduced, no illegality can be found with the order

passed by the learned trial Court.

13. In the present case, the petitioner having once taken the specific objection in the written statement and further aware of the decision in the Civil Suit, the said evidence which is now being sought to be adduced could have been taken before closure of her evidence. The petitioner by way of application, which came to be rejected, also wanted to produce the record of the Civil Suit instituted by her after the suit filed by the respondent. No reason has been assigned in the application that why did she not produce the said record and once the petitioner filed by her was rejected to summon the record, she would have assailed the said order.

14. This Court, while exercising the revisional jurisdiction, can only interfere with the order passed by the learned Courts below in case the Court has committed illegality while adjudicating the application or there is flagrant violation of procedure. However, in the present case, the learned trial Court after considering the matter in detail has rejected the

application, which does not warrant any interference by this Court.

15. Consequently, the present petition being devoid of merit is dismissed. Pending application(s), if any shall also stand disposed of. The parties are directed to appear before the learned trial Court on **26.05.2026**.

28th April, 2026
(ankit)

(Jiya Lal Bhardwaj)
Judge