2026:HHC:47868

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 694 of 2025
Decided on : 29.10.2026

Mohinder Singh & Ors. ...Petitioners

Versus

Sewak Rams & Ors. ...Respondents

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the petitioners	:	Mr. P.S. Goverdhan, Senior Advocate, with Mr. Rakesh Thakur, Advocate.
For the respondents	:	Mr. Mukesh Sharma, Advocate, for respondents No. 1 and 3. Name of respondent No. 2, stands deleted.

Virender Singh, Judge (Oral)

Petitioners have filed the present petition under Article 227 of the Constitution of India, against the order dated 08.10.2025, passed by the Court of learned Senior Civil Judge, Kasauli, District Solan, H.P. (hereinafter referred to as 'the learned trial Court'), in Civil Misc. Application No. 236/2025, in Civil Suit No. 322/1 of 2022, titled as "Sewak Ram & Ors. Vs. Geeta Ram".

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

2. By way of order dated 08.10.2025, the learned trial Court has dismissed the application under Order 1 Rule 10(2) read with Section 151 CPC, moved by the petitioners, for impleading them as parties-defendants No. 2 to 4, in the above titled suit.

3. For the sake of convenience, the parties to the present *lis,* are, hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

4. Brief facts, leading to the filing of the present petition before this Court, as borne out from the documents annexed with the petition, may be summed up, as under:-

4.1 Plaintiffs-Sewak Ram and others have filed a suit for Specific Performance of the Contract i.e. agreement to sell dated 16.06.1970, by directing the defendant to execute and register the sale deed in favour of the plaintiffs, as per the terms and conditions of the agreement in respect of the land comprised in Khata/Khatauni No. 72/85, Kita 9 measuring 10-03-07 bighas, situated at Mauza Sheel, Tehsil Krishangarh, District Solan, H.P. (old Khata/Khatauni No. 34/75 min, Khasra Nos. 1310, 1314, 1481, 1482, 1484, 1485, 1501, 1502, 1505, Kita 9,

measuring 09-17-07 bighas, situated at Mauza Sheel, Tehsil Solan, H.P. and Khata Khatauni No. 71/84, Kita 50-03-08 bigha, situated at Mauza Sheel, Tehsil Krishangarh, District Solan, H.P. (hereinafter referred to as 'the suit land'). In addition to this, they have also sought decree for permanent prohibitory injunction restraining the defendant, his agents and servants from alienating the suit land by way of sale, mortgage, gift or in any other manner.

4.2 The suit has been filed on the ground that the plaintiffs are agriculturists in the State of Himachal Pradesh. As such, they are competent and entitled to purchase any land or property in the State of Himachal Pradesh. The defendant is co-owner of the land, fully detailed and described in para 2 of the plaint and on account of legal necessity, he had entered into an agreement with their predecessor-in-interest, namely Sh. Bajiru Ram, on 16.06.1970, for the sale of land comprised in Khata/Khatauni No. 34/75 min, Khasra Nos. 1310, 1314, 1481, 1482, 1484, 1485, 1501, 1502 and 1505, Kita 9 measuring 09-17-07 bighas, situated at Mauza Sheel, Tehsil Solan, H.P., for a sum of Rs. 650/-. The entire sale consideration was received by Sh. Geeta Ram, from Sh.

Bajiru Ram, predecessor-in-interest of plaintiffs and handed over the possession of land to Sh. Bajiru Ram. After the demise of Sh. Bajiru Ram, possession of the suit land was handed over to the plaintiffs.

4.3 It is also their case that the predecessor-in-interest of the plaintiffs had also filed an application for correction of revenue record before Assistant Collector 1st Grade, Kasauli, District Solan, H.P., which application has been allowed and his name has been entered in the revenue record as "Davedar Bai". The brother of the defendant filed the appeal against the above order, before the Sub Divisional Collector, Solan, H.P. However, said appeal has been dismissed on 31.01.1994.

4.4 On the basis of the averments, the relief of Specific Performance of the agreement, has been sought.

5. When put to notice, the suit has been contested by the defendant.

6. During the pendency of the lis, the applicants Mohinder Singh, Dila Ram and Devi Dutt (applicants), have moved the application under Order 1 Rule 10(2) read with Section 151 CPC, to implead them as defendants No. 2 to 4, on the ground that the suit land is part of Khata No. 69,

which is jointly owned and possessed by the applicants along with defendant, as per the copy of jamabandi for the year 2014-2015 and according to them, defendant cannot sale specific Khasra numbers to Sh. Bajiru Ram, without the consent of the applicants.

7. According to them, the defendant is having 1/5 share in Khasra No. 69 and he can only sale his share, out of the total land, measuring 60-6-165 bighas, to Sh. Bajiru Ram. The parties to the lis are stated to be colluded with each other and they have filed the suit, qua the land, which is best piece of land out of the land measuring 60-06-15 bighas. In nutshell, it is their case that they being co-sharers in the suit, are not only necessary party, but proper party, for adjudication of the case.

8. This application has been contested by the plaintiffs, by taking preliminary objections that the application is not maintainable, the applicants have concealed the material facts from the learned Court. According to them, the applicants have filed a Civil Suit titled as “Dhani Ram & Ors. Vs. Waziru Ram & Ors.”, in the Court of learned Sub Judge, Kandaghat, District Solan, H.P., which was registered as case No. 125A/1 of 1982,

and was decided on 15.06.1984. The said suit was filed by them for permanent prohibitory injunction for restraining the predecessor-in-interest of plaintiffs, from interfering in their possession over the land measuring 09-17-07 bighas, comprised in Khasra Nos. 1310, 1314, 1481, 1482, 1484, 1485, 1501, 1502 and 1505, Khewat Khatauni No. 57/67 min, situated in Mauja Sheel, Tehsil Kasauli.

9. The said suit was dismissed with cost, by the then Sub Judge, Kandaghat, vide judgment and decree dated 15.06.1984. The appeal was filed before the learned District Judge Solan and Sirmour Districts, Camp at Solan. Appeal was registered as Civil Appeal No. 24-S/13 of 1984.

10. In the said appeal, application under Order 23 Rule 1 CPC, was filed, seeking permission to withdraw the suit, on the ground that there is a formal defect in the suit. The said application was allowed vide order dated 30.05.1985 and the applicants were permitted to withdraw the suit with permission to file a fresh suit on the same cause of action, subject to payment of Rs. 100/-. Thereafter, the applicants had not filed any suit against the predecessor-in-interest of the plaintiffs.

11. Subsequently, the predecessor-in-interest of the plaintiffs had filed an application for correction of revenue record, before the Assistant Collector 1st Grade, Kandaghat, which was allowed and the entry in the cultivation column in the suit land has been entered as “Davedar Bai”. The appeal has been filed, which has been dismissed.

11.1 On merits, the application has been contested on the ground that the applicants have no concern whatsoever, with the subject matter of lis.

12. The learned trial Court, vide order dated 08.10.2025, has dismissed the said application.

13. Now, the applicants are before this Court, under Article 227 of the Constitution of India.

14. Heard.

15. Admittedly, the applicants are not parties to the agreement to sell, dated 16.06.1970 and the plaintiffs have filed the suit for Specific Performance of the Contract, dated 16.06.1970, against the defendant. The plaintiffs are dominus litis, and they cannot be compelled to contest their claim against a person (persons), who are not party to the agreement to sell. The relationship between the

parties to the lis is allegedly based upon the agreement to sell, dated 16.06.1970.

16. Mr. P.S. Goverdhan, Senior Advocate, assisted by Mr. Rakesh Thakur, Advocate, has pointed out that in view of the averments, as made in paras 3 and 5 of the plaint, they are not only the proper party, but necessary party, as the controversy involved in the present case, cannot effectively been adjudicated in their absence.

17. The entry of the "Davedar Bai", to the considered opinion of this Court, would not affect the rights of the applicants, as the relationship between the plaintiffs and defendant is based upon the agreement dated 16.06.1970, which was allegedly executed by Sh. Geeta Ram defendant.

18. This Court, under Article 227 of the Constitution of India, can only correct the jurisdictional error, whereas, in the present case, the learned counsel for the applicants could not point out any jurisdictional error committed by the learned trial Court, as even, the sale of a specific khasra number, out of the joint land, would amount to sale of share and will be subject to the partition proceedings, if any.

19. Considering the above facts, this Court is of the view that there is no occasion for this Court to interfere with the discretion exercised by the learned trial Court, while deciding the application under Order 1 Rule 10(2) read with Section 151 CPC. Consequently, the present petition is dismissed.

20. Any of the observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present petition.

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

(Virender Singh)
Judge

29th October, 2026
(*Pramod Kumar*)