IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 677 of 2025.

Decided on :28th April, 2026.

Dharamveer **...Petitioner**

Versus

Raj Krishan & Ors. ....**Respondents.**

Coram:

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

For the Petitioner: Mr. Suneet Goel, Senior Advocate with Mr. Vishwas Kaushal, Advocate.

For the Respondents: Mr. Vishal Panwar, Advocate.

Romesh Verma, Judge (Oral).

The present petition arises out of order as passed by learned District Judge, Sirmaur District at Nahan in Civil Misc. Appeal No. 22-CMA/14 of 2024 on 08.10.2025, whereby the appeal preferred by the plaintiff/petitioner has been dismissed and the order as passed by learned Senior Civil Judge, Sirmaur District at Nahan dated 30.09.2024 has been affirmed.

2. Brief facts of the case are that the present petitioner/plaintiff filed a suit for grant of a decree of permanent prohibitory injunction against the present respondents/defendants. As per the claim as put forward by the plaintiff, he is owner in possession

[1] Whether reporters of the local papers may be allowed to see the judgment?

of Plot No. 14, situated in Housing Board Colony, Nahan District Sirmur H.P. It has been averred that the plaintiff has purchased the said plot along with house from its earlier owner Shri Ashwani Goel and Shri Vijay Kumar and that defendant No.1 is the owner of House No. LIG-15 contiguous to the plaintiff's house on its western side. That the plaintiff while raising construction has raised his retaining wall 10 feet in height x2.5 feet in breadth in and over his own plot towards the house of defendants and in May-June 2020 had raised a brick wall over his retaining wall by the side of house of defendants within their knowledge who had not raised any objection to such construction. The brick wall so raised by the plaintiff towards the plot/house of the defendants is below from the house of defendants and the defendants are causing continuous interference and trespass besides throwing debris in the house of plaintiff and to protect his property from unwanted intruders and their acts, have started raising the height of existing brick wall from 11.05.2024 by engaging masons and labourers, which did not find favour to defendants and the defendants illegally and unauthorizedly interfered in the construction work of the plaintiff and did not allow the plaintiff to complete his construction work. Such act on the part of the defendants is illegal and unauthorized and against the principle of law. The defendants have no right, title or interest over the suit land and are completely strangers

to it. Therefore, the suit has been filed for grant of decree of injunction against the defendants.

3. The suit as filed by the plaintiff/petitioner was contested by the defendants/respondents by filing a written statement by raising various preliminary objections with respect to maintainability, estoppel and limitation etc. On merits, all the averments as made in the plaint were refuted and denied. It was stated that after constructing the boundary wall in his own land by the defendants, they had left 2 feet land area as Gali behind his house towards the plot No.14 so that the sewerage pipe of his plot along with plot No. 6 & 7 could be laid or passed through the said left out land area, so as to avoid future complication in this behalf. It is further stated that in the month of June, 2023, the plaintiff started construction on the retaining wall of the defendants and tried to cover the 2 feet gali, which was used for sewerage pipe and trying to close the said gali by putting lintel on it.

4. Along with the suit, an application under Order 39 Rules 1 and 2 of CPC was also filed by the plaintiff/petitioner seeking injunction against the defendants/respondents by restraining them from causing any kind of interference either themselves or through their servants agents etc,, in the construction work of brick wall by the plaintiff over his plot No.14 and house towards the side of the defendants, in any manner whatsoever, during the pendency of the suit.

5. The application was duly contested by the defendants/respondent by filing reply.

6. Learned Senior Civil Judge, Sirmaur District Nahan vide its order dated 30.09.2024 directed both the parties to maintain status quo qua the brick wall alleged to be constructed on retaining wall constructed on plot No.14, situated in Housing Board Colony, Nahan, District Sirmaur, H.P. till the disposal of the main suit.

7. Feeling dissatisfied, the plaintiff /petitioner preferred an appeal in the Court of learned District Judge, Sirmaur District at Nahan on 28.10.2024. Learned first appellate Court vide its judgment dated 08.10.2025 dismissed the appeal preferred by the present petitioner.

8. Still feeling aggrieved, the plaintiff/petitioner has approached this court by filing the instant petition under Article 227 of the Constitution of India.

9. It is contended by Mr. Suneet Goel, Senior Advocate assisted by Mr. Vishwas Kaushal, Advocate, for the defendant/petitioner that by passing the impugned judgment and order, the learned Courts below has erred by not appreciating the real point in controversy. He has submitted that on one hand in the suit filed by the other side, the present petitioner/plaintiff has been injuncted from raising construction over the boundary wall and in the present case when he is seeking injunction with respect to his land he has been declined the injunction order and order of status quo has

been passed. He submits that after setting aside the impugned judgment and order, the respondents be injuncted from causing any interference in the raising of construction over the suit land.

10. On the other hand, Mr. Vishal Panwar, learned counsel for the plaintiff/respondent has defended the impugned judgment and order as passed by learned Courts below and submits that the learned courts below has rightly passed the impugned order.

11. I have heard learned counsel for the parties and carefully scanned the case file.

12. The respondent No.1 filed a civil suit against the present petitioner qua the plot No. 15 and in the said suit, he has filed an application under Order 39, Rules 1 and 2 of the CPC. The said application came to be allowed by the learned trial Court holding that since the present petitioner is stranger to plot No. 15, therefore, he cannot be permitted to interfere in the ownership and possession of the plaintiff/respondent in that suit. On the contrast, the learned trial Court and learned first appellate Court have taken contradictory stand by declining the interim injunction in favour of the present petitioner/plaintiff. Admittedly, in the present case, the present petitioner/plaintiff is the owner of plot No. 14. The ownership and title qua plot No. 14 is not disputed by the other side. In order to get the order of injunction, the plaintiff has made out a prima facie case for grant of injunction against the respondents. On the basis of title, the

plaintiff/petitioner is entitled for grant of interim injunction against the respondent since he is owner in possession of plot No. 14. Balance of convenience also lies in favour of the plaintiff/petitioner and in case the respondents are not injuncted from raising any construction over the suit land and from creating any interference over the suit land, in that event the plaintiff/petitioner will suffer irreparable loss.

13. Both the learned courts below while dealing with the case in hand have passed the conflicting orders. When the present respondent had approached the learned trial Court and learned first appellate Court, injunction was granted in favour of the present respondents and when plaintiff/present petitioner has filed an application under Order 39, Rule 1 and 2 of the CPC, status quo order was passed thereon and the injunction order was declined. This court is of the opinion that the learned Courts below had erred while appreciating the real point of controversy as the present petitioner/plaintiff is the owner in possession of plot No. 14, therefore, he is well within his right is entitled to injunct the defendants/respondents from raising any construction or creating any interference over the suit land.

14. Consequently, there is merit in the instant petition and the same is allowed. Impugned judgment and order passed by learned courts below are set aside. Accordingly, the respondents/defendants

are restrained from raising any construction or creating any interference over the suit land till the final disposal of the main suit.

15. Before parting, it is made clear that any observation made here-in-above shall not be taken as an expression of opinion on the merits of the main case and the same shall be adjudicated upon uninfluenced by any observation made here- in-above, which are only for the purpose of the instant petition.

(Romesh Verma)
Judge

28th April, 2026.
(jai)