IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.671 of 2026
Date of Decision: 16.11.2026

Joginder Singh & Ors.

.....Petitioners

Versus

Balbinder Singh Attri & Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?
For the Petitioners: Mr. Vijay Bir Singh, Advocate.

For the respondents: Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan, Mr. R.P. Singh & Mr. Anish Banshtu, Deputy Advocates General, for the respondents-State.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated 21.07.2026 (Annexure P-2), passed by learned Civil Judge, Jawali, District Kangra, whereby direction came to be issued to the Tehsildar/Naib Tehsildar to execute order dated 08.10.2025 passed by the Executing Court by effecting attachment of the immovable properties of the petitioners-judgment debtors, petitioners-judgment debtors have approached this Court in the instant proceedings, praying therein to set aside the aforesaid order.

2. Precisely, the case of the petitioners, as has been highlighted in the petition and further canvassed by Mr. Vijay Bir Singh, learned counsel representing the petitioners-judgment debtors,

is that the petitioners-judgment debtors are ready and willing to comply with the mandate contained in the judgment and decree ordered to be executed within a reasonable time and till then, order impugned in the instant proceedings may not be given effect to.

3. Having regard to the nature of the prayer and order proposed to be passed in the instant proceedings, this Court sees no necessity to issue notice to the respondents-decree holders and as such, same is dispensed with.

4. Having heard learned counsel for the petitioners and perused the material available on record, this Court finds that respondents-decree holders filed a suit for mandatory injunction against the petitioners-judgment debtors, bearing Civil Suit No. 98/2001, in the Court of learned Civil Judge (Junior Division), Jawali, District Kangra, which came to be decreed vide judgment and decree dated 29.09.2010.

5. Vide aforesaid judgment, Civil Court, as detailed hereinabove, passed decree for mandatory injunction in favour of the respondents-decree holders and against the petitioners-judgment debtors, directing the petitioners-judgment debtors to raise an RCC retaining wall (danga), 98 metres in length and 6 metres + 10.30 metres + 9.5 metres in height, on the boundary of Khasra Nos. 1848 and 1847, as per site plan Ext. PW-3/A and copy of Aks Shajra Kishtwar Bandobast Jadid Sani for the year 1983-84, as shown in Site

Plan No. 1 from Point A to A, for the protection of the land of the respondents-decree holders from soil erosion and to check and prevent further damage to their land comprised in Khata No. 74 min, Khatauni No. 145 min, Khasra No. 1847, measuring 0-14-52 HMs, situate at Mohal and Mauza Ray, Tehsil Fatehpur, District Kangra, H.P., as per Jamabandi for the year 1998-99, within a period of three months.

6. Though aforesaid judgment and decree passed by the competent Court of law have attained finality, but since the petitioners-judgment debtors failed to comply with the mandate contained therein, respondents-decree holders filed an execution petition, wherein order dated 08.10.2025 came to be passed by the Executing Court, thereby directing the revenue authorities to attach the movable and immovable properties of the judgment debtors.

7. Since, despite there being aforesaid direction, no steps were taken, respondents-decree holders filed an application under Section 151 CPC for enforcement of order dated 08.10.2025, passed on application under Order 21 Rule 32 CPC. In the aforesaid background, order impugned in the instant proceedings came to be passed, thereby directing the Tehsildar/Naib Tehsildar to execute order dated 08.10.2025.

8. Though having taken note of the fact that judgment and decree dated 29.09.2010 passed by the competent Court of law have attained finality, coupled with the fact that considerable time has

elapsed after passing of the aforesaid judgment and decree, this Court finds no illegality or infirmity in the order impugned and, as such, no interference is called for, however, having taken note of undertaking given by learned counsel representing the petitioners-judgment debtors that they are ready and willing to raise the retaining wall in terms of judgment dated 29.09.2010 passed by the Civil Court within a reasonable time, this Court, without interfering with the order impugned in the instant proceedings, deems it fit to dispose of the present petition with a direction to the petitioners-judgment debtors to comply with the mandate contained in judgment and decree dated 29.09.2010 within a period of one month. Till then, order dated 21.07.2026 passed by learned Civil Judge, Jawali, shall not be given effect to. However, it is made clear that in case needful, in terms of undertaking given to this Court, is not done within the stipulated period, order dated 21.07.2026 passed by the Executing Court shall be complied with forthwith and no further opportunity shall be afforded by the revenue authorities, as directed in the aforesaid order. Pending application(s), if any, stand disposed of.

(Sandeep Sharma)
Judge

November 16, 2026
(sunil)