IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 356/2026
Decided on: 23.09.2026

Somia Ram alias Sobia Ram .....Petitioner

Versus

Lalo Man & ors. ....Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the Petitioners: Mr. Vikas Rajput, Advocate.

For the Respondents: Ex-parte.

Romesh Verma, Judge (oral)

The present petition arises out of the order dated 18.06.2026, as passed by the learned Additional District Judge-II, Nurpur, District Kangra, H.P., whereby an application filed by the petitioner/plaintiff under Order 39 Rules 1 and 2 of CPC came to be dismissed.

2. The facts, as emerge in the present petition, are that plaintiff/petitioner filed a suit for permanent injunction

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

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restraining the defendants/respondents, their family members, relatives, agents, servants, attorneys, assignees, masons, labourers etc. permanently from raising construction, interfering, dispossessing, covering the front portions adjoining to the road and blocking the path of the plaintiff and changing the nature of the land, cutting and removing the trees standing over the suit land comprised in Khata No.62, Khatauni No.116, Khasra Nos. 423, 605, 606, plots 3, land measuring 01-14-59 H.M. situated in Mohal Samula, Mauza Sadwan, Patwar Circle Sadwan, Tehsil Nurpur Distt. Kangra, H.P.

3 As per the case, as set up by the petitioner/plaintiff, he alongwith defendant No.1 and other co-sharers is joint owner in possession of the suit land. Defendants No.2 and 3 are sons of defendant No.1 and they are totally strangers to the suit land. The suit land has not been partitioned yet by metes and bounds by any competent authority and thus, none of the co-sharers/co-owners has got right to change the nature of the suit land by raising construction over the same. It was contended that the defendants, in order to grab more land than their due share adjoining to the road side, threatened the plaintiff/petitioner to raise the construction over the valuable portion of the suit land and blocked his path used by him for ingress and egress to his residential house. The defendants in

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order to dispossess the plaintiff started digging operation and raising construction over the suit land.

4 The said suit was contested by the defendants/respondents by filing written statement, wherein they raised preliminary objections qua maintainability, cause of action etc, and on merits, they prayed for dismissal of the suit.

5 The learned trial court after framing the issues on 15.03.2024 directed the parties to adduce their evidence in support of their respective contentions.

6 Learned trial court, vide its judgment and decree, dated 20.06.2025 dismissed the suit of the plaintiff/petitioner.

7 Feeling dissatisfied, the plaintiff/petitioner approached the court of learned Additional District Judge-II, Nurpur, District Kangra, by filing an appeal under Section 96 of CPC. Along with the appeal, the plaintiff/petitioner filed an application under Order 39 Rules 1 and 2 of CPC.

8 The learned first Appellate Court vide its order, dated 18.06.2026 dismissed the aforesaid application, as filed by the plaintiff/petitioner.

9 Feeling aggrieved by the order, dated 18.06.2026, the plaintiff/petitioner has preferred the instant petition.

10 It is contended by the learned counsel for the petitioner that since the suit land is joint inter se the parties,

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therefore, during the pendency of the appeal before the learned first Appellate Court, none of the parties can be permitted to raise construction over the suit land in order to prejudice rights of either party. He has submitted that after accepting the present petition, application under Order 39 Rules 1 and 2 of CPC, as filed by the petitioner before the learned first Appellate Court, deserves to be allowed.

11 I have heard the learned counsel for the petitioner and have gone through the material available on record.

12 It would be noticed that in the case in hand, on 7.7.2026 this Court had issued dasti notice for the service of the respondents returnable for 23.7.2026, on which date registry of this Court reported that the respondents stood duly served, however none had put in appearance on their behalf in the Court and consequently, they were proceeded ex-parte. In the interest of justice, case was listed on 31.7.2026 and thereafter today (23.09.2026), however none has put in appearance on behalf of the respondents.

13 In view of the submissions, as made by the learned counsel for the petitioner and coupled with the fact that the respondents have chosen not to appear before the Court to contest the instant proceedings, it shall be desirable in the interest of justice that the parties shall maintain *status quo qua*

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nature and possession of the suit property during the pendency of the appeal, as pending before the learned first Appellate Court. Ordered accordingly. The learned first Appellate Court is directed to decide the appeal itself within a period of six months from today.

14 The instant petition is allowed in the aforesaid terms. Pending application application(s), if any, also stands disposed of.

(Romesh Verma)
Judge

23.09.2026
(pankaj)

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