IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 371 of 2026
Date of Decision: 20.07.2026

Arun Kumar ...Petitioner.

Versus

Babu Ram ...Respondent.

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

Whether approved for reporting?[1]

For the petitioner: Mr. Ashok K. Tyagi, Advocate.

For the respondent: Nemo.

Romesh Verma, Judge(oral)

The instant petition arises out of the order as passed by the learned Civil Judge, Nahan, District Sirmour, H.P. dated 24th of November 2025, whereby the evidence of the plaintiff-petitioner has been ordered to be closed.

2. The facts as emerge in the present case are that the plaintiff-petitioner filed a suit for permanent prohibitory injunction restraining the defendant, himself, or through his servants, agents, employees and nominees etc. from any kind of interference and from raising any sort of construction over the land. It has been averred in the plaint that the defendant is a

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

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stranger to the suit property and having no right, title, or concern in any manner whatsoever therein.

3. That the defendant after the purchase of the land i.e. khasra No. 1016/877/2/2, measuring 01 biswa from the plaintiff, and thereafter in the month of March 2019, when the defendant started raising construction on his said khasra number and also raising construction by encroaching khasra No. 1016/877/2/3, measuring 15 biswansis and Khasra No. 1016/877/2/5/2, therefore, the plaintiff had to file a suit against the defendant before the learned Civil Judge, Nahan, District Sirmaur, H.P. titled as ***Arun Kumar versus Babu Ram***, for permanent prohibitory injunction as well as mandatory injunction.

4. That during the pendency of the said suit, the Court appointed Tehsildar, Dadahu, as Local Commissioner, who visited the spot and found that the encroachment had been carried out by the defendant on the khasra No. 1016/877/2/3 measuring 15 biswancis and on khasra No. 1016/877/2/5/3 to the extent of 6 biswancis out of total suit land i.e 00-02-10 bighas and in this way the total encroachment was found on 21 biswancis of the land and thereafter, the parties orally compromised the matter, whereby the defendant agreed to

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demolish the encroached portion and on the oral compromise, the defendant demolished 6 biswancis of the encroached portion and removed the illegal occupation of said 6 biswancis and handed over the same to the plaintiff.

5. Further as per the oral compromise, the plaintiff had to sell the encroached area of 15 biswancis to the defendant and on the basis of the compromise, the earlier suit was withdrawn and the sale deed was registered in favour of the defendant with respect to the land under encroachment denoted by Khasra No. 1016/877/2/3 measuring 15 biswancis.

6. Thereafter, the defendant taking undue advantage of the absence of the plaintiff on the suit land again encroached the considerable portion of the suit land. Therefore, the plaintiff filed a suit for permanent prohibitory injunction seeking decree of injunction against the defendant, his servants, agents, employees and nominees etc. The said suit has been filed before Civil Judge, Nahan, District Sirmaur, H.P. on 18th of October 2023.

7. The said suit has been duly contested by filing the written statement on behalf of the defendant.

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8. Issues were framed in the matter on 07.12.2024 in the following manner:

> 1. Whether the plaintiff is entitled to relief of permanent injunction, as claimed? ...OPP
>
> 2. Whether the suit of the plaintiff is not maintainable, as alleged? ...OPD
>
> 3. Whether, the plaintiff has no cause of action to file the present suit, as alleged? ...OPD
>
> 4. Whether the plaintiff has concealed the material facts from the knowledge of this Ld. Court, as alleged? ...OPD
>
> 5. Relief.

9. Thereafter, the case was fixed for the evidence of the plaintiffs on 22nd of February 2025. Admittedly, the plaintiff-petitioner failed to lead the evidence despite granting various opportunities till 24th of November 2025 when the impugned order was passed.

10. The perusal of the case file reveals that sufficient opportunities were granted to the plaintiff-petitioner to adduce and lead the evidence in support of his case.

11. The learned trial Court has rightly passed the impugned order by closing the evidence of the plaintiff when he failed to produce the same, despite several opportunity.

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12. However, in the interest of justice and as a matter of indulgence, one last and final opportunity is ordered to be granted to the petitioner to lead/conclude his evidence, subject to the payment of costs of ₹25,000 to be paid to the defendant-respondent.

13. The indulgence is being shown to the petitioner subject to the payment of the aforesaid costs, and it is ordered that the learned trial Court shall afford last and final opportunity to the petitioner to lead his evidence, failing which, the benefit of the present order shall not be available to the petitioner.

14. This Court has been apprised that the matter is fixed before the learned trial Court on 24th August, 2026. On the said date, the learned trial Court is directed to fix a date for the leading of evidence by the plaintiff, subject to the payment of costs.

15. The present petition stands disposed of, in the aforesaid terms. All the pending miscellaneous application(s) if any, shall also stands disposed off.

(Romesh Verma)
Judge

July 20, 2026
(Nisha)

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