

IN THE COURT OF ANITA SHARMA, SENIOR CIVIL JUDGE, COURT
No.1, KANGRA, DISTT. KANGRA, H.P.

CIS CNR No. : HPKA130004032026

CIS case Type : Application

CIS case year : 2026

CIS case registration No: 220/2026

Date of Institution: 20.3.2026

Date of decision: 04.7.2026

In the matter of:

Sh. Jai Chand, son of Sh. Deewanu @ Deewan Chand S/o Sh.

Sunkha Ram resident of Village Jhikli P.O. Ichhi Tehsil and District
Kangra H.P

...Applicant/plaintiff.

Versus

Sh. Surinder Kumar, son of Shri Sher Singh resident of Tikka Bagh Mau
Ichhi Tehsil and District Kangra H.P.

... Respondent/defendant

APPLICATION UNDER ORDER 39 RULE 1 AND 2 OF C.P.C.

For the applicant : Shri S.C.Dhanotia, Advocate.

For the respondent : Shri Surinder Bhararia, Advocate

ORDER

This order shall dispose of an application under Order 39 Rule 1 and 2 of CPC preferred by the applicant for grant of temporary injunction restraining the respondent, his relatives, agents, servants, etc to interfere with the ownership and possession of the of the shops of the applicant/plaintiff and also has no right to interfere and take forcible possession of the shops constructed in Khasra No. 729 which are in exclusive possession of the applicant/plaintiff in any manner whatsoever, in land bearing Khata No. 153, Khatoni No. 219, Khasra No. 729, 730, 731, 732, 733, 734 plot-6 area measuring 00-03-05 hectares, situated at Mohal Jhikli Ichhi Mauza Ichhi Tehsil and District Kangra H.P. as per Jamabandi for the year 2022-23, (here-in-after referred as the suit land)

2 Brief facts stated in the application are that the applicant/plaintiff has constructed his 6 shops alongwith residential house in the suit land in the year 2004. For this purpose the applicant/plaintiff has obtained a loan of Rs.5,00,000/- from KCCB Bank Branch at Zamanabad. This land alongwith shops have been mortgaged with the KCC Bank Branch at Zamanabad vide registered mortgage deed dated 15-12-2004. The photocopy of the mortgaged deed alongwith estimate and proposed plan of 6 shops on ground floor and proposed residential on 1st floor plan are attached with the plaint. Averred that the respondent/defendant is a stranger to the suit land and being clever and strong headed person has no respect for law is interfering and is threatening to take the forcible possession of the shops alongwith vacant land for which he has no right and title to do so. Further averred that in case the respondent is not restrained in that event the applicant shall suffer irreparable loss which cannot be compensated by way of costs. That there is no other remedy to the applicant than to file the present application. The applicant has a prima facie case in his favour and balance of convenience is also in favour of issuing of an ad-interim injunction against the respondent. Hence, it is prayed that an ad-interim injunction be issued against the respondent restraining him from interfering over the suit land in any manner whatsoever till the decision of the main case on merits. Application is duly supported with an affidavit.

3. Application is resisted and contested by respondent by filing reply, wherein denied the entire contents of the application. Averred that it is not mentioned anywhere by the applicant/plaintiff knowingly about the Wife of the respondent defendant namely Smt. Kiran Bala who has purchased the share from the applicant/plaintiff on 15 January 2014 by a Registered Sale Deed. The Respondent defendant has purchased suit land from applicant/plaintiff, rather it is in favor of the respondent/defendant and defendant's wife Smt. Kiran Bala too. So after the due observation over the conduct and behavior of the applicant/plaintiff, the applicant plaintiff is not entitled for any discretionary reliefs granted by the court. The Respondent defendant give money to the plaintiff in advance just to save the properties from the said KCC Bank and lastly the plaintiff executed the said sale deed in the year 2014. As such the questions of interference with the ownership and possession of the alleged shops etc. do not arise at all. The Respondent defendant

and his wife are already in possession of shops and residential accommodation on the first floor. The applicant/plaintiff will not suffer any irreparable loss, but the respondent/defendant will suffer an irreparable loss if the temporary injunction is granted in favour of applicants/plaintiffs. There are no merits in the present application. Hence prayed for dismissal of the application.

4. Rejoinder filed. Most of the contents of the application were re-affirmed and that of reply were denied as wrong.

5. Heard. Record perused.

6. Now coming to the application in hand plaintiff/applicant seeking temporary injunction restraining the defendant, his agents, servants and other persons claiming through him from interfering with the plaintiff's possession over the shops constructed on Khasra No. 729 and from taking forcible possession of the same during the pendency of the suit. The case of the plaintiff is that he is a co-owner and in exclusive possession of the suit property. It is pleaded that he constructed six shops along with a residential house in the year 2004 after obtaining a loan from KCCB Bank and mortgaged the property vide registered mortgage deed dated 15.12.2004. It is alleged that the defendant, having no right or interest in the suit property, is threatening to dispossess him forcibly. The defendant has opposed the application and pleaded that the plaintiff has concealed material facts and that the wife of the defendant had purchased the share of the plaintiff through a registered sale deed dated 15.01.2014. It is further pleaded that the defendant and his wife are already in possession of the shops and residential accommodation and, therefore, the question of interference does not arise. The plaintiff has denied these assertions by filing a rejoinder.

7. At this stage, the Court is only required to examine whether a prima facie case, balance of convenience and irreparable loss exist. The plaintiff has relied upon the revenue record, mortgage deed and other documents to support his claim, whereas the defendant has disputed the plaintiff's exclusive possession and has relied upon a registered sale deed besides claiming possession over the suit property. The rival claims regarding title and possession involve disputed questions of fact which cannot be finally adjudicated at this interlocutory stage and require evidence during trial. Considering the nature of the dispute, this

Court is of the opinion that the interest of justice would be served by preserving the existing state of affairs till the final adjudication of the suit. If either party is permitted to change the existing position, it may result in irreparable injury and multiplicity of proceedings. Accordingly, the application is **partly allowed**. Both the parties are directed to **maintain status quo regarding the nature, possession and existing construction over the suit property** till the disposal of the suit. Neither party shall dispossess the other forcibly, raise any fresh construction, demolish the existing structure or create any third-party interest without prior permission of the Court.

8. Before parting with the order, it is made clear that observations made hereinafter above shall not be construed as expression of opinion about the merits of the case. The application stands disposed of accordingly. It be tagged with the main case file.

Announced and signed in the open court on this 4th day of July, 2026

(Anita Sharma)
Senior Civil Judge,
Kangra, Distt. Kangra, H.P.