

Bhag Chand vs. Babu Ram (deceased) through LRs.

CMP(M) No.339 of 2023

12.12.2025 Present: Mr. Piyush Verma, Senior Advocate with Ms. Ambika Thakur, Advocate, for the applicants/respondents.

Mr. Deepak Bhasin, Senior Advocate with Mr. Sambhav Bhasin, Advocate, for the respondent/non-applicant.

The present petition has been preferred under Order 39 Rule 2-A of the Civil Procedure Code. The specific order, whereof, infringement has been pointed out is the order dated 04.11.2022 appended along-with the present petition as Annexure C-1. The same is being reproduced here-in-below:-

“CMP No. 15017 of 2022

By way of instant application, prayer has been made on behalf of the respondents for vacation/modification of order dated 2.1.2019 passed in CMP No. 1 of 2019, affirmed on 26.7.2019. Learned counsel for the appellant prays for and is granted two weeks' time to file reply. In the meantime, parties are directed to maintain status quo qua nature, possession and further construction on the suit property.

Copy Dasti.”

The attention of this Court has been invited to the copy of Rapat Rojnamcha appended along-with present petition as Annexure C-3. The same is dated 06.12.2022, i.e., after the passing of the interim order. In the same, the way and manner in which the interim order had been violated has been categorically reflected. Besides the same, it reflects that the interim order passed by this Court dated 04.11.2022 was brought to be notice of the of the non-applicant/appellant. Suffice it to state that the interim order had been passed in the presence of the counsels for the parties.

Other than the aforesaid, from the photographs appended along-with rejoinder (Annexure C-8), it is evident that a roof has been raised after the passing of the interim order. The raising of the

roof is sought to be justified in terms of order dated 15.07.2025 passed by the Court in RSA No.1 of 2019 wherein the interim order which has been violated, had been passed on 04.11.2022. The relevant extract of the order is being reproduced here-in-below for ready reference:-

“At this stage, learned counsel for the appellant submits that structure raised by the appellant is deteriorating day-by-day in absence of proper protection. Therefore, appellant may be permitted to cover the structure raised on the spot by him with tin roof without creating any right in his favour to claim equity on the basis of any development made by him in this regard.

Learned counsel for the respondents submits that respondents also be permitted to raise his house on the spot where old house of the respondents was existing.

Learned counsel for the appellant is not averse to allow the prayer made on behalf of the respondents, but subject to condition that proper identification of the area whereupon construction is proposed, is brought on record and construction proposed to be raised by the respondents shall not create any equitable right in their favour to claim allotment of the land on the basis of such construction and in case any portion of land with construction is found suitable or necessary to be allotted to any other co-sharer then the respondents shall have to leave the said portion of the land along with structure raised thereon without claiming any right, title, interest or compensation on account of construction proposed to be raised.

In view of the aforesaid submissions, learned counsels are directed to have complete specific instructions by next date of hearing in this regard, so as to avoid any confusion leading to multiplication of litigation. Needful be done by the next date of hearing.

Parties are permitted to use downloaded copy of the order from the H.P. High Court Website to produce it before the Assistant Collector Grade-II to ensure the compliance by Assistant Collector Grade-II.

List on 24.07.2025.”

From a perusal of the order dated 17.07.2025 passed in RSA No.01 of 2019, it is clearly evident that the plea being raised qua the Court having permitted raising of construction, is completely belied.

In terms of order dated 17.07.2025, after recording of the submissions of the counsel for the non-applicant/appellant, learned counsel were directed to supply complete specifications by the next date with respect to the portion where upon the construction was sought to be raised by the non-applicant/appellant.

In the aforesaid context in my considered view, before the non-applicant/appellant is heard, he shall have to purge himself of contempt so committed.

List on **15.12.2025**.

December 12, 2025 (KS)

(Bipin C. Negi)
Judge