



**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

RSA No.87 of 2025

Date of Decision: 17.04.2026

Siri Ram & Ors.

...Appellants

Versus

Abhishek

.....Respondent

Coram:

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting? Yes.

For the Appellants : Mr. Mohinder Verma, Advocate.

For the Respondent : Mr. Janesh Gupta, Advocate.

Virender Singh, Judge (Oral)

The appellants have preferred the present Regular Second Appeal against the judgment and decree dated 27.12.2024, passed by the Court of learned Additional District Judge-I, Una, District Una, H.P., (hereinafter referred to as the First Appellate Court), in Civil Appeal No.45 of 2023.

2. By way of the judgment and decree dated 27.12.2024, the learned First Appellate Court, has dismissed Civil Appeal No.46 of 2023, titled as Siri Ram versus Abhishek, Civil Appeal No.45 of 2023, titled as Siri



Ram & others versus Abhishek and Cross Objections No.2 of 2024, in Civil Appeal No.45 of 2023.

3. Civil Appeal No.46 of 2023 has been preferred by the present appellant No.1-Siri Ram, against the judgment and decree dated 22.02.2023, passed by the Court of learned Civil Judge, Court No.II, Amb, District Una, H.P., (hereinafter referred to as the trial Court), in Counter Claim No.109 of 2013, titled as Siri Ram versus Abhishek. The learned trial Court, while deciding Civil Suit No.267 of 2012, has dismissed the suit, as well as, counter claim filed by defendant No.1-Siri Ram.

4. The parties to the lis are, hereinafter, referred to, in the same manner, in which, they were referred to, by the learned trial Court.

5. Plaintiff-Abhishek has filed suit for permanent prohibitory injunction against defendant No.1-Siri Ram and others. In the said suit, defendant No.1-Siri Ram had preferred the counter claim, which has been registered, as Counter Claim No.109 of 2013. The learned trial Court, vide judgment and decree, dated 22.02.2023 has dismissed both, the civil suit, as well as, the counter claim.



6. Against the said judgment and decree, passed by the learned trial Court, defendant No.1-Siri Ram has preferred Civil Appeal No.46 of 2023, challenging dismissal of his counter claim, by the learned trial Court, whereas, plaintiff-Abhishek has filed the cross objections, which have been registered, as Cross Objections No.2 of 2024, before the learned First Appellate Court.

7. In addition to this, defendant No.1-Siri Ram and other defendants have also filed Civil Appeal No.45 of 2023, titled as Siri Ram and others versus Abhishek. The learned First Appellate Court has dismissed, both the Civil Appeals i.e. Civil Appeals No.45 and 46 of 2023, as well as, Cross Objections No.2 of 2024.

8. Now, the defendants are before this Court, by way of Regular Second Appeal.

9. It is not in dispute that the learned trial Court has dismissed the suit of plaintiff-Abhishek, as well as, counter claim, preferred by defendant No.1-Siri Ram, vide judgment and decree dated 22.02.2023.

10. Defendant No.1-Siri Ram, in the present case, has assumed two different characters: one, as a counter



claimant, and another, as defendant No.1, in the lis, which was instituted, before the learned trial Court.

11. Aggrieved from the dismissal of the suit, Abhishek had preferred Cross Objections No.2 of 2024, whereas, defendant No.1-Siri Ram has preferred Civil Appeal No.46 of 2023, before the learned First Appellate Court. Defendant No.1-Siri Ram along with other defendants has also filed Civil Appeal No.45 of 2023, however, defendant No.1-Siri Ram and others, do not fall within the definition of 'aggrieved persons', as, the suit filed against them was dismissed, along with the dismissal of the counter claim filed by defendant No.1-Siri Ram, who had preferred independent appeal i.e. Civil Appeal No.46 of 2023. No decree was passed by the learned trial Court, against the defendants, giving an occasion to them, to file Civil Appeal No.45 of 2023, appeal could only be filed if there is any decree against them. Learned trial Court has dismissed the suit of plaintiff-Abhishek. As such, Civil Appeal No.45 of 2023, was not maintainable, before the learned First Appellate Court.



12. Consequently, the present appeal, which has been preferred against the judgment and decree, passed by the learned First Appellate Court, in Civil Appeal No.45 of 2023, is not maintainable. Accordingly the same is dismissed, being not maintainable.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Virender Singh)
Judge

April 17, 2026
(subhash)