



2026:HHC:8415

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.5644 of 2025

Decided on: 23rd March, 2026

Nand Lal and another

.....Petitioners

Versus

State of H.P. and others

.....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioners: Dr. Lalit Kumar Sharma, Advocate.

For the Respondents: Ms. Seema Sharma, Deputy Advocate
General, for respondents No.1 to 4.

Mr. G.R. Palsra, Advocate, for
respondent No.5.

Jyotsna Rewal Dua, Judge

Petitioner No.1 moved an application before the Assistant Collector First Grade on 31.07.2010 for partition of land held by him jointly with other co-owners. Sh. Nanku-father of present respondent No.5 and Sh. Yadvinder Kumar (present petitioner No.2) were respondents in the aforesaid application. During the course of partition proceedings, Sh. Nanku got recorded his statement on 29.09.2011 that he was ready and willing for

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.



partitioning the joint land. Petitioner No.2 (respondent No.2 in the partition proceedings) despite service, did not attend the same, hence, was proceeded against *ex-parte*. Mode of partition was prepared on 15.10.2011. On completion of the file, statements of parties were recorded on 27.03.2018. In their joint statement recorded on 27.03.2018, Sh. Nanku as also his son-Sh. Hem Raj (present respondent No.5) accepted the mode of partition as also the partition carried out as per the accepted mode of partition. Present petitioner No.1 also accepted the mode of partition and partition carried out in terms of the accepted mode of partition on 27.03.2018. Petitioner No.2 in terms of his statement recorded on 10.04.2018, accepted the mode of partition and the partition carried out as per the accepted mode of partition. Accordingly, instrument of partition was ordered to be prepared by the Assistant Collector Second Grade on 31.07.2018. In terms of the instrument of partition, total 1028 shares were allotted to Sh. Nanku and his son-Sh. Hem Raj (respondent No.5), out of which, 128 shares were given to Sh. Nanku and 900 to respondent No.5.

2. Respondent No.5 filed an appeal before the Sub-Divisional Collector against the above order dated 31.07.2018. The appeal was primarily on the ground that



appellant's father-Sh. Nanku had already transferred his entire share in the land in favour of the appellant (respondent No.5), therefore, land could not have been allotted in partition proceedings to Sh. Nanku. Respondent No.5 asserted that he had not been impleaded as respondent in the partition proceedings, therefore, injustice has been caused to him. The appeal was dismissed by the Sub-Divisional Collector on 25.04.2022, being barred by limitation.

Respondent No.5 carried revision petition before the Divisional Commissioner exercising powers of Financial Commissioner (Appeals). The revision petition was allowed on 27.02.2025 primarily on the ground that respondent No.5 was a necessary party and had wrongly not been impleaded in the partition proceedings. This was so observed in view of the fact that Sh. Nanku had allegedly transferred his shares in the land in favour of respondent No.5.

3. During the course of hearing of this writ petition, learned counsel for the parties, more specifically learned counsel for respondent No.5, apprised that Sh. Nanku-father of respondent No.5 had died on 14.06.2020; That respondent No.5 had dispute only qua



shares of Sh. Nanku as according to this respondent, Sh. Nanku's 128 shares had been wrongly reflected in the instrument of partition; That on account of transfer effected by Sh. Nanku, 128 shares were also required to be shown in the kitty of respondent No.5. It was, however, submitted that respondent No.5 has no dispute qua the land and shares allotted to the present petitioners during partition proceedings. Learned counsel for respondent No.5 submits that subsequent to the death of Sh. Nanku, his entire land holdings, i.e. 128 shares allotted to him in partition proceedings, have now fallen back upon respondent No.5; That there is no surviving grievances between the parties or between respondent No.5 and his late father-Sh. Nanku. Learned counsel for respondent No.5 submits that this respondent now accepts the mode of partition as also the instrument of partition prepared vide Annexure P-2, i.e. the order passed by the Assistant Collector Second Grade on 31.07.2018.

4. In view of above submissions and the fact that no dispute survives between the parties, the impugned order passed by the Divisional Commissioner on 27.02.2025 (Annexure P-4) is quashed and set aside. Consequently, order dated 31.07.2018 (Annexure P-2)



passed by the Assistant Collector Second Grade, Balh, District Mandi shall continue to remain in force and will be given effect to. Needless to clarify that it shall be open to respondent No.5 to seek attestation of mutation in his favour qua shares/property of his late father-Sh. Nanku in accordance with law.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

March 23, 2026
Mukesh

Jyotsna Rewal Dua
Judge