

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 169/2026

Decided on: 29.06.2026

Mansa Ram

.....Petitioner

Versus

Sang Dass & ors.

...Respondents

Coram:

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

Whether approved for reporting?¹

For the Petitioner: Mr. Mohar Singh, Advocate.

For the Respondents: Ms. Priti Steta, Advocate, vice Mr. Arsh Chauhan, Advocate, for respondents No. 1 and 2.
Mr. Harish Sharma, Senior Panel Counsel, for respondent No.3.
Mr. Mukul Sood, Advocate, for respondent No.4.

Romesh Verma, Judge (oral)

The instant petition arises out of order dated 10.03.2026, as passed by the learned Senior Civil Judge, Rampur Bushahr, District Shimla, whereby warrant of attachment and sale of property of the judgment debtors/petitioner has been issued.

¹Whether reporters of the local papers may be allowed to see the judgment? Yes.

2 The facts, as emerge in the instant case, are that decree holders, Sang Dass and Nanak Chand, filed a suit for possession against the present petitioner/J.D. namely, Mansa Ram, and proforma respondents/J.Ds, namely the Commandant, Border Roads Task Force and Executive Director, Indian Oil Corporation Ltd. before the learned trial Court on 31.10.2015. As per averments, as made in the plaint, the plaintiffs along with others are co-owners of the suit land as per jamabandi for the year 2009 and defendant No.3-IOC, has been shown in the column of possession, which is contrary to spot situation, as at present defendant No.1, Mansa Ram on behalf of defendant No.2 is in possession being employee of defendant No.2.

3 As per plaintiff, defendant No.2 does not have any legal right of any kind on the suit land either by itself or through its employee defendant No.1 Mansa Ram. The IOC, who has been shown in possession in the revenue record had no legal right of any kind to hand over the possession of suit land to anyone without the written consent and permission of the owners of the suit and. Therefore, the possession of defendants No. 1 and 2 is not more than the possession of a trespasser for which they are liable to be ejected, but on oral request of plaintiffs, they paid no heed. Hence, the suit.

4 The learned trial court vide its order, dated 15.01.2024, decreed the suit as preferred by the plaintiffs/decreed holders by passing decree of possession in their favour with costs.

5 The present petitioner/JD Mansa Ram, was proceeded ex-parte in those proceedings and he instituted a time barred appeal in the court of learned first appellate court on 9.12.2025. Along with the appeal, an application under Section 5 of the Limitation Act for condonation of delay was also filed. In the meantime, decree holders filed an execution petition before the learned trial court for recovery of costs of Rs.25,021/- against J.Ds.

6 Learned executing Court vide its order dated 10.3.2026 issued warrant of attachment and sale of the property of the J.Ds. to realize costs amount in proportionate from the all defendants/JDs.

7 Feeling dissatisfied, one of the judgment debtors, namely, Mansa Ram, petitioner, has approached this Court by filing instant petition under Article 227 of the Constitution of India.

8 It is contended by Mr. Mohar Singh, learned counsel for the petitioner that the impugned order, as passed by the learned trial court, is erroneous and liable to be quashed and set

aside. He would submit that after setting aside the impugned order, the objections as preferred by the JD/petitioner deserves to be allowed.

9 On the other hand, Ms. Priti Steta, learned counsel for respondents No. 1 and 2 has defended the impugned order. She has submitted that the impugned order is a well reasoned order, legal and valid and there is no perversity or jurisdictional error in the same. Similarly, official respondents have also defended the impugned order.

10 During the course of hearing, learned counsel for the petitioner has submitted that in sequel to the order, dated 22.04.2026, as passed by this Court, total cost amounting to Rs.25,021/- stands deposited in the registry of this Court. He would further submit that the time barred appeal filed by the petitioner is pending in the Court of learned District Judge and necessary direction can be issued to the said Court to decide the appeal itself.

11 The said fact and statement of the learned counsel for the petitioner has not been disputed or agitated by the learned counsel for the respondents.

12 Therefore, without adjudicating and touching merits of the case, this petition is disposed of with direction to the learned District Judge, Kinnaur, to decide the appeal itself on

merit and take the same to its logical end within a period of three months from today.

13 Since the entire costs amount stands deposited in the Registry of this Court, till that time, the learned executing court would not proceed against the petitioner in the execution petition.

14 It is made clear that after decision of the learned first appellate Court, decree holders shall be at liberty to proceed in the matter to revive the execution petition in accordance with law.

15 Pending application(s), if any, also stands disposed of.

29th June, 2026
(*pankaj*)

(Romesh Verma)
Judge