

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****Civil Suit No. 79 of 2024****Decided on: 19.09.2025**

Sandeep Kumar plaintiff

Versus

Neelam Raghuvanshi and others

.....defendants

Coram:**Hon'ble Mr. Justice Bipin Chander Negi, Judge**Whether approved for reporting? ¹

For the plaintiff : Mr. Arjun Lal and Mr. Aakash Thakur, Advocates.**For the defendants** : Mr. Virender Kanwar, Advocate, for defendants No. 1 & 2.

: Mr. Jagat Singh Shyam, Advocate, for defendant No.3..

Bipin Chander Negi, Judge (oral)

The present suit has been filed seeking numerous reliefs, however, the plaintiff only limits his claim to relief No.1, which reads as follow:-

“Decree of partition of the immovable property comprised in khata/khatauni No. 114 min/244, Khasra No. 1749, total land measuring 00-01-00 sq. mtrs, situated at Mohal Padech, Patwar Circle Padech, Tehsil and District Shimla (Rural), HP (comprising 5-storied constructed building) alongwith the land abutting the suit property as per the revenue record’.

2. Learned counsel appearing on behalf of the plaintiff and defendant No.1 are the real brothers and sisters. In para 2 of the plaint, it has been averred that the suit property sought to be

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



partitioned inter se the parties was the self acquired property of their late father. Details of the purchase so made by their deceased father is mentioned in para 3 of the plaint. The said facts are admitted by the defendants in the written statement filed. The description of the suit property has been given in para 1 of the plaint. The same is also admitted by the defendants in the written statement filed.

3. Insofar as the suit property is concerned, it is averred in the plaint specifically in para 5 thereof that the same by virtue of a registered Will duly registered before the Sub Registrar Shimla (Rural H.P.) had been bequeathed in equal shares in favor of the plaintiff and defendant No.1. This fact is admitted in the corresponding paragraph of the written statement filed by the defendant.

4. Subsequent to the death of their father on 14.3.2014, suit property in the case at hand had been mutated in favour of plaintiff and defendant No.1 in terms of a registered Will dated 25.7.2013. A fact acknowledged and admitted by the defendants in the corresponding paragraph of the written statement. Parties are in joint possession of the suit property.

5. In the aforesaid facts and attending circumstances, learned counsel appearing on behalf of the plaintiff has invited attention of this Court in Order 12 Rule 6. The same reads as under:-



"6. Judgment on admissions.-(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

The bare perusal of the aforesaid provision makes it clear that it confers wide discretion on the court to pass a judgment at any stage of the suit on the basis of admission of facts made in the pleading or otherwise without waiting for the determination of any other question which arose between the parties. Since the Rule permits the passing of judgment at any stage without waiting for determination of other questions, it follows that there can be more than one decree that may be passed at different stages of the same suit. The principle behind Order 12 Rule 6 is to give the plaintiff a right to speedy judgment so that either party may get rid of the rival claims which are not in controversy.

6. Other than the aforesaid, learned counsel for the plaintiff has drawn the attention to Chapter-11 of the Hindu Succession Act, 1956 lays down the law of intestate succession amongst Hindus. Rule 2 of Section 10 of the said Act is reproduced as under:

"10. Distribution of property among heirs in class I of the Schedule. The property of an intestate shall be divided among the heirs in class I of the Schedule in accordance with the following rules:-

Rule 1.-The intestate's widow, or if there are more widows than one, all the widows together, shall take one share.



Rule 2.-The surviving sons and daughters and the mother of the intestate shall each take one share.

Rule 3.-The heirs in the branch of each pre-deceased son or each pre-deceased daughter of the intestate shall take between them one share.

Rule 4.-The distribution of the share referred to in Rule 3-

(i) among the heirs in the branch of the pre-deceased son shall be so made that his widow (or widows together) and the surviving sons and daughters get equal portions; and the branch of his pre-deceased sons gets the same portion;

(ii) among the heirs in the branch of the pre-deceased daughter shall be so made that the surviving sons and daughters get equal portions."

20. A simple reading of the said provision lays down that the distribution of property amongst class-1 legal heirs is supposed to be done equally. Further, all the said legal heirs are supposed to receive an equal share in such distribution of property regardless of the factors as stated by the Defendant No. 1.

7. In view of the fact that defendant No.1 has admitted the suit property to be self acquired property of their father, which by virtue of a registered Will dated 25th of July, 2013 has been bequeathed in favour of plaintiff and defendant No.1 in equal share. I am of the considered view that there is sufficient material for grant of preliminary decree in favour of the plaintiff. The suit property shall be divided equally amongst both the parties i.e. half share each.



8. I have enquired from the counsel for the plaintiffs and the counsel for the defendant No. 1, whether there is any possibility of division of the suit property by metes and bounds. Both state that a Court Commissioner be appointed for the said purpose. Accordingly, Sh. Hari Ram (Retired Naib Tehsildar), R/o Village Shakoh, P.O. Kallihatti, Tehsil & District Shimla, H.P. (171103), Mobile No: 9816124167 is appointed as a Court Commissioner who in consultation with the parties and by visiting the property and having a plan measured to scale thereof prepare, explore and suggest the possibilities of division of the property aforesaid by metes and bounds between the plaintiffs on the one hand and the defendant No. 1 on the other hand with each having share of equal value therein. For doing the needful, the Court Commissioner is free to engage the service of a Draftsman/Architect. The Court Commissioner to submit the report on or before 10.11.2025. The fee of the Court Commissioner is tentatively fixed at Rs. 25,000/- besides out of pocket expenses (including charges for hiring the services of a Draftsman/Architect) to be borne equally by the two plaintiffs on the one hand and the defendant No. 1 on the other hand.
9. In view of the above terms, preliminary decree sheet be drawn up accordingly.



List for consideration of the report of the Court

Commissioner on **25.11.2025**.

(Bipin Chander Negi)
Judge

September 19, 2025
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