

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CMPMO No. 625 of 2025****Date of Decision : 20.04.2026**

Amrit Negi & anr. ...Petitioners**Versus****Neel Prabha Zinta ...Respondent**

Coram:**The Hon'ble Mr. Justice Romesh Verma. Judge.*****Whether approved for reporting?¹*****For the petitioners : Mr. Jagat Pal, Advocate.****For the respondent : Nemo**

Romesh Verma, Judge(oral)

The present petition arises out of the order as passed by the learned Senior Civil Judge, Court No.2, Shimla, H.P., whereby the application filed by the decree holder under the provisions of Order 21 Rule 11 C.PC has been allowed.

2. Brief facts of the case are that the decree holder/ plaintiff filed a suit for Specific Performance of oral agreements to sell dated 05.01.2017 and 28.11.2019, further for relief of permanent prohibitory injunction in respect of flat consisting of two rooms, one drawing-cum- dinning room, one kitchen, two balconies and one toilet-cum- bathroom situated on the

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

top floor of building constructed upon land measuring 66 square meters in KhasraNo. 1292/1190/57/1 situated at Mohal Chakdyal, Patwar Circle, Sanjauli, Shimla, H.P. The plaintiff had sought for the consequential relief of possession and grant of compensation at the rate of Rs. 30,000/- per month from the defendants from date of filing of the present plaint till the date of execution of sale deed in favour of the plaintiff.

3. The defendants were duly served in the matter, however, the defendants were proceeded against ex-parte by the learned trial Court vide its order dated 19.02.2023.

4. The learned Senior Civil Judge, Court No.2, Shimla H.P. vide its judgment and decree dated 08.04.2024, dismissed the suit for specific performance of agreement. However, J.Ds/defendants were directed to return the consideration amount of Rs. 59,00,956/- along with interest @ 6% per annum from the date of such payment to the plaintiff within two months from date of pronouncement of the judgment passed by the learned trial Court and in default, the plaintiff was held entitled to recover the amount of Rs. 59,00,956/- along with interest @ 6% per annum from the date of such payment till realization of whole of the amount from the defendants jointly and severally.

5. The judgment and decree was passed by the learned Senior Civil Judge, Court No.2, Shimla on 08.04.2024. Admittedly, the said judgment and decree have attained its finality and J.Ds/petitioners have not assailed the said findings before any competent Court of law.

6. The Decree Holder preferred the execution petition by filing an application under Order 21 Rule 11 of C.P.C for the execution of the judgment as passed by the learned trial Court on 08.04.2024. The learned Executing Court vide its order dated 18.07.2025 has allowed the application filed by the decree holder and consequently, warrant of attachment of immovable property of the Judgment debtors was issued on taking steps within 15 days.

7. Feeling aggrieved the J.D/petitioner has preferred the present petition against the order as passed by Executing Court dated 18.07.2025.

8. It is contended by Mr. Jagat Pal, Advocate that the impugned order as passed by the learned Executing Court is erroneous and not sustainable in the eyes of law. He further submits that since the Judgment Debtors have already preferred an application under Order 9 Rule 13 C.P.C before the very same Court for setting-side ex-parte decree, therefore, no coercive

steps/order could have been passed by the learned Executing Court.

9. The perusal of the case file reveals that admittedly ex-parte judgment and decree has been passed by the learned Senior Civil Judge, Court No.2, Shimla on 08.04.2024. In the said suit, the learned Senior Civil Judge, Court No.2 Shimla has passed a decree for consideration amount of Rs.59,00,956/- alongwith interest @ 6% per annum from the date of such payment to the plaintiff within two months from the date of passing of the judgment .

10. The execution petition has been filed but admittedly, the record reveals that no objection was raised by the Judgment debtors/petitioners. The learned Executing Court has rightly passed the impugned order, which does not call for any interference. The order as passed by the learned Executing Court is legal, valid and sustainable in the eyes of law and does not call for any interference.

11. At this stage, Mr. Jagat Pal, Advocate submits that direction may be issued to the learned Civil Judge, Court No.2, Shimla to decide the application, which has been filed by the Judgment Debtors/petitioners under order 9 Rule 13 of C.P.C. He

further submits that the next date of the said case has been fixed by the learned trial Court on 06.07.2026.

12. The contention of the learned counsel for the petitioner is that a direction be issued to the learned Civil Judge, Court No. 2, Shimla to decide the said application. The learned Court below to proceed in the matter in accordance with law without influenced by any observation made by this Court.

13. Consequently, the present petition being devoid of any merit, deserves to be dismissed and is accordingly dismissed.

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

**(Romesh Verma),
Judge**

20.04.2026 (veena)