

ITEM NO.7

COURT NO.7

SECTION III-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).17681/2026

[Arising out of impugned final judgment and order dated 22-09-2025 in CMPMO No. 268/2019 passed by the High Court of Himachal Pradesh at Shimla]

ARUN SEN CHAND

Petitioner(s)

VERSUS

MAHINDER KUMAR & ANR.

Respondent(s)

IA No. 99057/2026 - CONDONATION OF DELAY IN FILING

Date : 08-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) : Ms. Radhika Gautam, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. The petitioner before us is the original defendant.
3. The respondents have instituted Civil Suit No.76/1 of 2015 in the Court of the learned Civil Judge Senior Division, Kasauli, District Solan, State of Himachal Pradesh praying for the following reliefs:-

"It is, therefore prayed that the decree for declaration may be passed in favour of the plaintiffs and against the defendant to the effect that the plaintiff are absolute owners in possession of the suit land comprised in Khata/Khatauni No.59/59, bearing Khasra No.367, 369, 370, 373, 374, 375, 377,

378, 380, 381, 382, 383, 384, 385, 386, 408, 410, 411, 412 kotas 20 measuring 160 Bighas 16 Biswas 14 Biswansi situated in Mauja Jatrog, Hadbast No.433, Sub Tehsil Krishangarh, District Solan HP and the defendant has no right, title and interest in or over the suit land in any manner whatsoever. The mutation No.128 and 129 dated 11.6.76 sanctioned behind the back of the plaintiffs and their predecessor in interest are wrong, illegal, null, void and subsequently the mutation No.320 dated 25.10.2010 sanctioned in favour of the defendant in pursuance of judgment and decree dated 11.7.1996 passed in RFA No.61/74 by the Hon'ble High Court of HP is wrong, illegal, null, void, without jurisdiction and is not binding upon the rights, title and interest of the plaintiffs. Consequently, the revenue entries incorporated in pursuance of mutation No.320 in favour of the defendant are also wrong, illegal, null, void and are in operative qua the right, title and interest of the plaintiffs and alleged revenue entries do not confer any right, title and interest unto the defendant. Consequently a decree for permanent injunction may be passed in favour of the plaintiffs and against the defendant restraining the defendant from raising any claim qua the suit land, causing any interference in the ownership and peaceful possession of the plaintiffs, dispossessing the plaintiffs from the suit land forcibly and illegally, making alienation qua the suit land and causing damage and waste to the existing structures and standing valuable trees therefrom and also from changing nature of the suit land or any part thereof either by himself, through his agents, servants, or any person claiming under him whosoever in any manner whatsoever. In case during the pendency of the suit the defendant succeeds in dispossessing the plaintiffs from the suit land forcibly or illegally in that event a decree for possession may be passed in favour of the plaintiffs and against the defendant with cost of the suit, in the interest of justice."

4. It appears that the plaintiffs preferred an application under Order XI Rules 12, 14 and 15 of the Civil Procedure Code (for short, "the CPC"), respectively read with Section 151 of

the CPC, praying that the defence of the defendant be struck off. The Trial Court allowed the application, striking off the defence.

5. Being dissatisfied, the petitioner went before the High Court. The High Court declined to interfere and affirmed the order passed by the Trial Court.

6. The principal contention canvassed on behalf of the petitioner is that the Trial Court ought not to have struck off the defence under Order XI Rule 21 of the CPC. It is a very drastic provision which should be exercised with great care and circumspect.

7. Issue notice, returnable in four weeks.

8. Dasti service, in addition, is permitted.

9. In the meantime, the proceedings of Civil Suit No.76/1 of 2015 referred to above shall remain stayed.

(HARPREET KAUR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)