



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 76 of 2025
Decided on : 07.08.2025

Sh. Kishori Lal and another.

...Petitioners

Versus

Smt. Darshna Devi.

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?¹ Yes

For the petitioners : Mr. Romesh Verma, Senior Advocate, with Mr. Sumit Sharma, Advocate.

For the respondent : Mr. Piyush Dhanotia, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioners have, *inter alia*, prayed for the following relief:-

"That the impugned order passed in CMA No. 344/2024 of dated 27.01.2025 passed by the Learned Civil Judge, Court No.III, Amb, District Una in Civil Suit No. 235-I of 2024 may kindly be quashed and set aside and the application filed for police assistance of the Plaintiff/Respondent may kindly be

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

rejected.”

2. The petitioners are aggrieved by the order dated 27.01.2025, passed by the learned Civil Judge, Court No.III, Amb, District Una, in Civil Suit No. 235-I of 2024, in terms whereof an application filed by the respondent seeking police assistance for the implementation of the order passed by the learned Trial Court in an application filed under Order XXXIX, Rule 1 and 2 of the Code of the Civil Procedure, was disposed of by the learned Trial Court, in the following terms:-

“5. In view of the above facts and circumstances, the present application seeking Police help is allowed. Let reference be made to the concerned SHO to visit the spot and ascertain the actual situation on spot regarding the uprooting of latrine bathroom, forthwith as per the orders of this Court. A copy of this order along with the copy of the order dated 23.10.2024 be also sent along with the reference. The SHO will be at liberty to take all the necessary help from the revenue authorities to ascertain the location of the suit land. The report of the SHO should reach this Court on or before

28.02.2025.”

3. Learned Senior Counsel for the petitioner submitted that the impugned order is per se perverse for the reason that whereas, there was no occasion for the learned Court below to have ordered grant of any police assistance to implement the order as there was no violation thereof by the petitioner, however, otherwise also, while passing the impugned order, learned Court below erred in not appreciating that it could not have called upon the Station House Officer to do the acts, as are spelled out in Paragraph No.5 of the order which amount to collecting evidence in favour of the other party.

4. On the other hand, learned counsel for the respondent submitted that there is no perversity in the order passed by the learned Court below for the reason that it rightly directed the SHO to visit the spot and ascertain the actual situation on the spot, so that it could be deciphered as to whether the status quo order was violated by the other side with impunity or not.

5. I have heard learned Senior Counsel for the petitioner as well as learned counsel for the respondent and

have also carefully gone through the impugned order as well as the documents appended with the petition.

6. The application filed by the respondent for providing police assistance for the enforcement of the status quo order is appended with the petition as Annexure P-5. The prayer made therein reads as under:-

"It is therefore prayed that the status quo order dated 23/10/2024 may please be implemented and enforced through police and the police official of Police Station Amb, Tehsil Amb, Distt. Una (HP) may kindly be directed to visit the spot and to stop the respondents from their illegal acts over the suit land as stated above in the interest of justice, equity and good conscience."

7. The operative part of the order passed on this application by the learned Court below has already been quoted by me hereinabove.

8. This Court is of the considered view that in an application filed seeking police assistance, all that the Court can order is grant or refusal of police assistance for the implementation of the order.

9. However, by no stretch of imagination in such an application, the Court can direct an Officer or Official of a Department, may be the Police Department, to visit the spot and ascertain the actual situation on the spot, as has been done in the present case by the learned Court below.

10. No order can be passed by a learned Court in such an application, which would amount to collection of evidence in favour of a party to the prejudice of the other party. The Court has to restrict itself to the prayer made in the application and pass orders strictly in consonance thereof. Any deviation therefrom would obviously endanger the veracity of the order.

11. Therefore, as in the facts of this case, learned Court below was not justified in passing the order that was passed by it, this petition is allowed. Order dated 27.01.2025, passed by the learned Civil Judge, Court No.III, Amb, District Una, in Civil Suit No. 235-I of 2024, is quashed and set aside and the matter is remanded back to the learned Court below with the observation that let the application be decided by the learned Court below afresh, strictly in consonance with the prayers made therein. While deciding the application, learned Court

below will not be influenced by any observation made by this Court in this petition.

12. The petition is disposed of in above-said terms. Interim order, if any, stands vacated forthwith Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

August 07, 2025
(Shivank Thakur)