



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
CWP No.13174 of 2026
Decided on: 04.08.2026

Neel ChandPetitioner

Versus

Divisional Commissioner, Mandi and Ors.Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Maan Singh, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General,
with Mr. Y.P.S.Dhaulta, Additional
Advocate General, for respondents No.
1 to 3.

Nemo for respondents No.5 to 12

Jyotsna Rewal Dua, Judge

Petitioner seeks quashing and setting aside of
order dated 16.05.2026 passed by the Divisional
Commissioner, Mandi [exercising the powers of Financial
Commissioner (Appeals), H.P.], affirming the order dated
06.08.2021, passed by the Collector Udaipur, District
Lahaul & Spiti and in turn affirming the mode of partition
dated 19.10.2020 framed by the Assistant Collector Second

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

Grade, Sub Tehsil Udaipur, District Lahaul & Spiti.

2. Heard and considered the case file.

3. Petitioner along with respondent No.4 as also proforma respondents No. 5 to 12 jointly owned the property in question. Respondent No.4 moved an application under Section 123 of the Himachal Pradesh Land Revenue Act, 1954 (the Act in short) for partition of the land jointly held by the parties. The concerned Assistant Collector Second Grade, framed the mode of partition on 19.10.2020. Present petitioner assailed the mode of partition before the Collector by filing appeal under Section 14 of the Act. The grounds taken in the appeal for assailing the mode of partition were:-

- (i) Respondent No.5-Som Dev (brother of the petitioner) was Deaf and Dumb. He could not be sued without appointment of the court guardian in terms of Order 32 Rule 3 of the Civil Procedure Code. The Assistant Collector Second Grade had not appointed the court guardian for respondent No.3, therefore, mode of partition framed was liable to be quashed.

(ii) One of the co-sharers Sh. Ram Chand had died in the year 1985. His legal heirs, however, had not been brought on record of the partition case.

iii) The mode of partition would disturb the existing possession of the petitioner.

The Collector rejected petitioner's appeal on 06.08.2021. The appellate order was affirmed by the Divisional Commissioner on 16.05.2026.

4 On hearing learned counsel for the parties and considering the impugned orders, I am not inclined to interfere with the same for the following reasons:-

4(i) Petitioner's allegations are that respondent No.5-Sh. Som Dev (brother of the petitioner) was Deaf and Dumb. On this basis, petitioner has asserted that there was necessity to follow the provisions of Order 32 Rule 3 of CPC for appointing court guardian for respondent No.3. Since this recourse was not adopted by the Revenue Authorities, therefore, the mode of partition deserves to be quashed.

4(ii) There are concurrent findings of facts returned by the Revenue Courts that respondent No.5-Sh. Som Dev

had been issued summons for 20.03.2018 by the Assistant Collector Second Grade. The Process Agency reported that Sh. Som Dev was not present at his house at the time of effecting service, having gone to Kullu for Dussehra festival. On 01.11.2018, summons were affixed on the door of the house of Sh. Som Dev. Efforts made by the Revenue Court for serving the summons upon Sh. Som Dev personally, eventually were successful as he was served personally with the summons for 16.07.2020. Sh. Som Dev put his signatures on the summons in Hindi, but did not attend the Court proceedings. The Revenue Court again issued summons to him, the same were pasted on 18.08.2020. He did not cause appearance before the Court. The summons were again received in person by Sh. Som Dev on 24.09.2020 and also on 19.10.2020. He put his signatures on the summons in token of receipt thereof. Despite service, Sh. Som Dev did not appear in the Court, accordingly, he was proceeded against ex-parte. Learned Revenue Court concerned drew correct inference that Sh. Som Dev had signed in Hindi, which reflected that he could read and write and comprehend the matter. Merely because Sh. Som Dev was Deaf and Dumb, would not mean that Sh. Som Dev was a person of unsound mind

which is the fundamental requirement for proceeding under Order 32 Rule 3 of CPC. That situation will arise if it is proved that a Deaf and Dumb person is incapable of protecting his interest in the subject property due to mental infirmity. It is also not the case of the petitioner that Sh. Som Dev was a minor.

To a query made to learned counsel for the petitioner, as to whether Sh. Som Dev was served in the Appellate Court (Collector) as also before the Revisional Court [Divisional Commissioner exercising the powers of Financial Commissioner (Appeals)], the answer was in the affirmative. It was also submitted by the learned counsel for the petitioner that Sh. Som Dev had not taken any such objection himself despite having been served before the Appellate and Revisional Authorities. Pertinently, save and except the petitioner, none of the other co-sharers have raised any objection to the mode of partition.

4(iii) Insofar as the second contention of the petitioner is concerned, the concurrent findings of facts returned are that Sh. Ram Chand died in the year 1985, but his legal heirs had already been brought on record. This objection was raised before the Appellate and

Revisional Authorities and have been rejected on merits holding that the legal heirs of Sh. Ram Chand had been brought on record in the partition proceedings. Be that as it may, this objection has not been raised in the instant writ petition.

No other objection against the mode of partition was raised by the learned counsel for the petitioner.

For the foregoing reasons, there is no merit in the present writ petition. The same is accordingly dismissed.

Pending miscellaneous application(s), if any, also to stand disposed of.

August 04, 2026
R.Atal

Jyotsna Rewal Dua
Judge