

**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA****CR No. 19 of 2026****Decided on : 19.03.2026**

Rup Lal & others ...Petitioners

Versus

Dagu & others ...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners: Mr. Alok Rajan and Mr. Paresh
Sharma, Advocates.

Jiya Lal Bhardwaj, Judge (Oral)

CMP No. 4001 of 2026

In view of the averments made in the application the same is allowed and delay in refiling the petition is condoned.

The application is accordingly disposed of.

CR No. 19 of 2026

By way of present petition, the petitioners (plaintiffs in the civil suit) have laid challenge to the order dated 27.08.2025, passed by the learned Civil Judge, Court No.3, Mandi, District Mandi (HP) (hereinafter referred to as learned trial Court), whereby an application for amendment of an application moved under Order 9

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



Rule 7 CPC, read with Section 151 CPC, filed by defendant No. 5 (in civil suit) has been allowed.

2. Shorn of unnecessary details, the key facts pleaded in the present petition are that the defendant No.5 in the Civil Suit, who has been impleaded as respondent No.5 in the present petition, had been proceeded ex-parte, filed an application under Order 9 Rule 7 CPC read with Section 151 CPC. When the matter was listed for arguments, said defendant No.5 filed an application for seeking amendment of the application stating therein that due to typographical mistake, the year '2016' has been wrongly typed in the place on '2022' in paragraph No. 2 (6th line from the top) and in paragraph No. 4 (4th line from the top). It was further averred that in paragraph No. 1 of the application the words 'posted for 09/11/2022' are liable to be deleted.

3. The petitioners who are the plaintiffs in the said application by filing reply inter alia opposed the application on the grounds that the application is not legally maintainable and defendant No.5 is estopped by her conduct and the amendment sought is at a belated stage after arguments in the application under Order 9



Rule 7 CPC have already been heard. The application has been filed with an intention to fill up lacunae and once arguments have been concluded and the matter is listed for orders, no amendment can be permitted and accordingly the application be dismissed.

4. Learned trial Court after hearing the parties and considering the judgment of the Hon'ble Supreme Court in ***Revajeetu Builders & Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84***, had allowed the application holding that the amendment sought is necessary for the proper adjudication of the pending application.

5. Learned counsel for the petitioners vehemently argued that the impugned order passed by the learned trial Court is illegal, inasmuch as the jurisdiction which has been exercised is not vested and acted with material irregularities. Further the application for amendment of the application could not have been allowed, once it was moved after hearing the arguments in the application for setting aside ex-parte order under Order 9 Rule 7 CPC.

6. It is not in dispute that the application filed by defendant No.5 for setting aside ex-parte order is pending



adjudication before the learned trial Court in which defendant No.5 had only sought the deletion of '2016' in paragraphs No.2 & 4 and further deletion of the words 'posted for 09/11/2022'. It is not understandable that how is that going to cause any injustice or prejudice to the plaintiffs, especially when the application for setting aside the ex-parte order moved by defendant No. 5 under Order 9 Rule 7 CPC, is still pending adjudication before the learned trial Court.

7. The plaintiffs have instituted the suit in the year 2016 and the impugned order has been passed on 27.08.2025. The conduct of the plaintiffs reveals that they are not interested to get the Civil Suit decided and has taken a hyper technical stand that the amendment sought could not have been allowed by the trial Court. As already held above, the application filed by defendant No.5 is still pending adjudication before the learned trial Court and while exercising the power which has been exercised by the learned trial Court to rectify the mistake, it cannot be said that the learned trial Court has erred while exercising his jurisdiction. This Court while exercising the revisional power can only interfere with the order, in case, there is



illegality or material irregularity having been committed by the learned trial Court. In the present case, neither there is any illegality having been committed by the learned trial Court nor material irregularity and thus, no interference is called for.

8. Consequently, the present revision petition is dismissed, however no orders as to cost. Pending application(s), if any, also stand disposed of.

19th March, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**