

IN THE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA

CMPMO No. 86 of 2026  
Reserved on : 21.4.2026  
Decided on: 30.4.2026

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Chuni Lal

... Petitioner

Versus

Rakesh Kumar & anr.

...Respondents

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Coram

Hon'ble Mr. Justice Virender Singh, Judge

Whether approved for reporting?

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For the Petitioner: Mr. Amardeep Singh,  
Advocate.

*For the Respondents :* None.

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Virender Singh, Judge

Petitioner has filed the present petition, under Article 227 of the Constitution of India, against the judgment dated 3.1.2026, passed by the learned Additional District Judge, Ghumarwin, District Bilaspur, H.P. (hereinafter referred to as 'the First Appellate Court') in Civil Miscellaneous Appeal No. 474 of 2023, titled as, 'Chuni Lal versus Rakesh Kumar & anr.'

2. Vide judgment dated 3.1.2026, the learned First Appellate Court has dismissed the appeal, filed under Order XLIII Rule 1(r) CPC, by the petitioner, against

order dated 25.4.2023, passed by the Court of learned Civil Judge, Court No. 3, Ghumarwin, District Bilaspur, H.P. (hereinafter referred to as 'the trial Court'), in CMA No. 1154 of 2022, titled as, 'Chuni Lal versus Rakesh Kumar & anr.'

3. For the sake of convenience, parties to the lis are, hereinafter referred to, in the same manner, in which, they were referred to, by the learned trial Court.

4. Brief facts, leading to filing the present petition, may be summed up, as under:

Plaintiff Chuni Lal has filed the suit for permanent prohibitory injunction, against the defendants, restraining them from digging any part, raising the construction, dispossessing the plaintiff and interfering in the suit land, in any ways, means and manner qua land, measuring khata No. 56 min, khatauni No. 92 min, khasra Nos. 100, 103, 107, land measuring 03-12-00 bighas, recorded as Shamlat Deh, which, according to him, is recorded in the joint possession of plaintiff, defendants and others, situated in village Damehra, Pargana Ajmerpur, tehsil Bharari,

District Bilaspur, H.P.(hereinafter referred to as ‘the suit land’), till the same is partitioned by metes and bounds.

4.1 Parties to the lis are real brothers. Defendant No. 1 is real brother of plaintiff, whereas, defendant No. 2 is wife of defendant No. 1.

5. Alongwith the suit, application under Order 39 Rules 1 and 2 CPC has also been moved, seeking the following interim relief:

*“It is therefore, respectfully prayed before the Hon'ble Court that the respondents may very kindly be restrained from digging any part, changing the nature, cutting the trees and excavating the suit land for the purpose of construction and occupy the best, specific and valuable portion of the suit land comprised in Khata No. 92min Khasra No. 100, 103, 107 land measuring 03-12-00 Bigha recorded as Sham Lat Deh and in the column of possession recorded as joint in possession of the applicant, respondents and others situated in village Damehra Pargna Ajmerpur Tehsil Bharari District Bilaspur (HP) till the final disposal of the suit either themselves or through their agents, servants, representatives or family members till the final disposal of the suit and justice be done.”*

6. The said suit, as well as, the application has been contested by the defendants and the learned trial

Court, vide order dated 25.4.2023 has dismissed the application under Order 39 Rules 1 and 2 CPC.

7. Against the said order, plaintiff has approached the learned First Appellate Court, by way of appeal, which was also dismissed by the learned First Appellate Court.

8. Now, the plaintiff is before this Court, under Article 227 of the Constitution of India. By way of the present petition, the order passed by the learned trial Court, as upheld by the learned First Appellate Court, has been assailed, on the ground, that both the Courts below have not considered the true spirit of the provisions of Order 39 Rules 1 and 2 CPC, and wrongly dismissed the application under Order 39 Rules 1 and 2 CPC, moved by the plaintiff.

9. The scope of interference under Article 227 of the Constitution of India is very limited and the order can be interfered with, under Article 227 of the Constitution of India only to correct the jurisdictional error and to prevent the grave miscarriage of justice.

10. Before interfering with the orders, passed by the learned trial Court or the learned First Appellate Court, this Court, under Article 227 of the Constitution of India, can only interfere with the findings of the learned trial Court, if the same falls within the definition of 'perverse findings'.

11. The term "perverse" has duly been elaborated by the Hon'ble Supreme Court in '***Arulvelu and Another Versus State represented by the Public Prosecutor and Another***', reported in ***(2009) 10 Supreme Court Cases 206***. Relevant paragraphs 22 to 30 of the said judgment are reproduced, as under:-

*"22. We have carefully perused the judgment of the trial court and the impugned judgment of the High Court. The trial court very minutely examined the entire evidence and all documents and exhibits on record. The trial court's analysis of evidence also seems to be correct. The trial court has not deviated from the normal norms or methods of evaluation of the evidence. By no stretch of imagination, we can hold that the judgment of the trial court is based on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it and consequently the judgment of the trial court is perverse.*

*23. We also fail to arrive at the conclusion that the discussion and appreciation of the evidence of the trial court is so outrageously defies logic as to suffer from the vice of*

*irrationality incurring the blame of being perverse and the findings rendered by the trial court are against the weight of evidence. The law is well settled that, in an appeal against acquittal, unless the judgment of the trial court is perverse, the Appellate Court would not be justified in substituting its own view and reverse the judgment of acquittal.*

*24. The expression 'perverse' has been dealt with in number of cases. In Gaya Din (Dead) through LRs. & Others v. Hanuman Prasad (Dead) through LRs. & Others, this Court observed that the expression 'perverse' means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*

*25. In Parry's (Calcutta ) Employees' Union v. Parry & Co. Ltd. & Others, the Court observed that 'perverse finding' means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. Collector of Central Excise, Cochin, the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*

*26. In M. S. Narayanagouda v. Girijamma & Another, the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough, the Court observed that a perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey, the Court defined 'perverse' as turned the wrong way, not right; distorted*

*from the right; turned away or deviating from what is right, proper, correct etc.*

27. The expression "perverse" has been defined by various dictionaries in the following manner:

1. Oxford Advanced Learner's Dictionary of Current English Sixth Edition

*Perverse: Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.*

2. Longman Dictionary of Contemporary English – International Edition

*Perverse: Deliberately departing from what is normal and reasonable.*

3. The New Oxford Dictionary of English - 1998 Edition

*Perverse: Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.*

4. New Webster's Dictionary of the English Language (Deluxe Encyclopedic Edition)

*Perverse: Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.*

5. Stroud's Judicial Dictionary of Words & Phrases, Fourth Edition

*Perverse: A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.*

28. In [Shailendra Pratap & Another v. State of U.P.](#), the Court observed thus:

*"8. ... We are of the opinion that the trial court was quite justified in acquitting the appellants of the charges as the view taken by it was reasonable one and the*

*order of acquittal cannot be said to be perverse. It is well settled that appellate court would not be justified in interfering with the order of acquittal unless the same is found to be perverse. In the present case, the High Court has committed an error in interfering with the order of acquittal of the appellants recorded by the trial court as the same did not suffer from the vice of perversity."*

29. In *Kuldeep Singh v. The Commissioner of Police & Others*, the Court while dealing with the scope of Articles 32 and 226 of the Constitution observed as under:

*"9. Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of "guilt" is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny.*

*10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with."*

30. The meaning of 'perverse' has been examined in *H. B. Gandhi, Excise and Taxation Officer-cum- Assessing Authority, Karnal & Others v. Gopi Nath*

*& Sons & Others 1992, this Court observed as under:*

*"7. In the present case, the stage at and the points on which the challenge to the assessment in judicial review was raised and entertained was not appropriate. In our opinion, the High Court was in error in constituting itself into a court of appeal against the assessment. While it was open to the respondent to have raised and for the High Court to have considered whether the denial of relief under the proviso to [Section 39\(5\)](#) was proper or not, it was not open to the High Court re-appreciate the primary or perceptive facts which were otherwise within the domain of the fact-finding authority under the statute. The question whether the transactions were or were not sales exigible to sales tax constituted an exercise in recording secondary or inferential facts based on primary facts found by the statutory authorities. But what was assailed in review was, in substance, the correctness - as distinguished from the legal permissibility - of the primary or perceptive facts themselves. It is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law."*

12. Similar view has again been taken by the Hon'ble Supreme Court in '**S.R. Tewari Versus Union of**

*India and Another'*, reported in *(2013) 6 Supreme Court Cases 602*. Relevant paragraph 30 of the said judgment is reproduced, as under:-

*“30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide: [Rajinder Kumar Kindra v. Delhi Administration](#), [Kuldeep Singh v. Commissioner of Police & Ors.](#), [Gamini Bala Koteswara Rao & Ors. v. State of Andhra Pradesh](#) thr. Secretary and [Babu v. State of Kerala](#)).*”

13. Being guided by the above decisions, this Court would now proceed further to determine the fact whether the findings of the learned trial Court falls within the definition of ‘perverse findings’?

14. The learned trial Court, on the basis of stand taken by the parties, has dismissed the application, under Order 39 Rules 1 and 2 CPC. From the stand taken by the parties, the suit land is stated to be joint between the plaintiff and defendant No. 1 and defendants have taken specific stand in the reply that the plaintiff has not approached the Court with clean hands and concealed the material facts. The defendants have taken the plea of private partition and asserted that they are in separate possession. Plaintiff has already raised construction and when, defendants have started raising construction, he has filed the civil suit.

15. In the rejoinder, although, the plaintiff has denied the private partition, but, has not uttered anything about the allegations that he has already raised construction of two houses. When, a specific stand has been taken by the defendants, in their reply to application under Order 39 Rules 1 and 2 CPC, which has even not been replied in the replication, in such situation, this Court is of the view that findings of the learned trial Court, as upheld by the learned First

Appellate Court, does not fall within the definition of 'perverse findings'.

16. Consequently, there is no occasion for this Court to interfere with the well reasoned judgment passed by both the learned Courts below.

17. In view of above, the present petition is dismissed. The pending application(s), if any, are also disposed of.

**30.4.2026**  
Kalpana

**(Virender Singh)**  
**Judge**