

**(2013) 01 SHI CK 0041**

**In the High Court Of Himachal Pradesh**

**Case No :** Regular Second Appeal No. 545 of 2011 and CMP No. 1362 of 2012

Smt. Saroj Kumari Sharma and Sh. Sita Ram Sharma

APPELLANT

Vs

Sh. Rajeev Kumar

RESPONDENT

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**Date of Decision :** 03-01-2013

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 151

**Citation :** (2013) 01 SHI CK 0041

**Hon'ble Judges :** Kuldip Singh, J

**Bench :** Single Bench

**Advocate :** Sunil Mohan Goel, for the Appellant; Amit Sharma, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Kuldip Singh, Judge

1. The learned counsel for the parties have stated that the parties have settled the dispute and the terms of the compromise have been incorporated in the application itself. The learned counsel for the appellants has stated that the appellant No. 1 is present in the Court and she has been identified by him. It has been stated that appellant No. 2 is not in a position to appear in the Court on account of his ill-health and age, he has authorized the appellant No. 1 by way of Special Power of Attorney filed in the Court today along with separate application u/s 151 CPC. The learned counsel for the respondent has stated that Shri Sunil Kumar Gupta, Power of Attorney holder of respondent is present in the Court and he has been identified by learned counsel for the respondent. The learned counsel for the parties have stated that the application has been signed by appellant No. 1 and Shri Sunil Kumar Gupta, Power of Attorney holder of respondent as well as by both the counsel. The learned counsel for the appellants has stated that appellant No. 1 is also Special Attorney of appellant No. 2. In terms of the settlement between the parties, the respondent has handed over Demand Draft No. 777806 dated 04.12.2012 amounting to Rs. 3,00,000/- to the

appellant No. 1 in the Court which she has accepted on her behalf as well as on behalf of appellant No. 2. The appellant No. 1 and appellant No. 2 through appellant No. 1 have undertaken to hand over the possession to respondent of land measuring 0-01-00 hectares, bearing Khata No. 162, Khatauni No. 349, Khasra No. 1345/1264/1 by demolition of structure being part of Khasra No. 1345/1264 (0-38-86 hectares) on or before 15.01.2013. The appellant No. 1 has stated in the Court that she has understood that in case the vacant possession of the land in question is not handed over to respondent on or before 15.01.2013, then the appellants shall also be liable for violating the undertaking given to this Court.

2. I have gone through the application which is supported by affidavits of appellant No. 1, Sunil Kumar Gupta Power of Attorney holder of respondent. I have also gone through the application u/s 151 CPC filed in the Court today which is also supported by an affidavit of Saroj Kumari Sharma. I am satisfied that the parties have amicably settled the dispute. Accordingly, the appeal is dismissed with the directions that in lieu of amount of Rs. 3,00,000/- which the appellants have received today in the Court from respondent, the appellants shall hand over the vacant possession of land measuring 0-01-00 hectares, being part of Khasra No. 1345/1264 as shown in copy of Aks Shajra-Ex.P2 and also explained in report of Local Commissioner Ex.OW1/A, after demolition of super structure in favour of respondent on or before 15.01.2013 and further restraining the appellants from interfering over rest of the suit land measuring 0-38-86 hectares bearing Khata No. 162, Khatauni No. 349, Khasra No. 1345/1264, situated at Mohal and Mouja Sungal, Tehsil Palampur, Distt. Kangra (H.P.), failing which the respondent shall be entitled to execute the decree and the appellants shall also be liable for violating the undertaking given to this Court today. The appellants shall be entitled to the debris on the spot after demolition of the structure.