

## Anil Kumar And Others Vs Vinay Kumar And Others

**Court:** High Court Of Himachal Pradesh

**Date of Decision:** Dec. 13, 2022

**Acts Referred:** Code Of Civil Procedure, 1908 " Order 23, Rule 3

**Hon'ble Judges:** Ajay Mohan Goel, J

**Bench:** Single Bench

**Advocate:** Neeraj Gupta, Janesh Gupta, Vendant Ranta, G.C. Gupta

**Final Decision:** Disposed Of

### Judgement

Ajay Mohan Goel, J

1. By way of this civil suit, the following substantive prayers were made:-

“It is therefore prayed that the suit may be decreed in favour Plaintiffs against the defendants by passing the decree for partition of the suit

properties by metes and bounds.

It is further prayed that a decree for rendition of accounts may also be passed in favour of plaintiffs and the defendants may be directed to render true

and faithful accounts to the plaintiffs with respect to the sum realized from the tenants of the suit properties with effect from the date of death of Shri

Dina Nath Sood till date and further for the sum realized by the defendants from the tenants during the pendency of the suit.

It is further prayed that after such accounts are rendered by the Plaintiffs a decree for recovery of such sum as may be found due from the

defendants to the plaintiffs may be passed in favour of plaintiffs along with interest on such rate as the Hon'ble Court may deem appropriate.

2. During the pendency of the suit, a joint application has been filed under Order 23, Rule 3 of the Code of Civil Procedure, i.e. OMP No. 851 of 2022,

in terms whereof, it stands stated that now the disputes, subject matter of the present civil suit as well as other matters intra the parties have been duly

settled amongst them in terms of (a) Annexure P-1 appended with the application, which is relatable to the suit property as also (b) Annexure P-2,

which takes care of the property other than the suit property. Statement of plaintiff No. 1 on his and on behalf of plaintiff No.3 as well as statement of

plaintiff No. 2 on his and on behalf of remaining plaintiffs, i.e. plaintiffs No. 4 to 6, stands recorded to this effect. In terms of the statement, they have

respectively stated that they have no objection in case the present suit as well as Counter Claim, are disposed of/decreed in terms of per Annexures

P-1 and P-2 appended with OMP No. 851 of 2022.

3. Similarly, statement of defendant No. 2 on his and on behalf of remaining defendants has also been recorded, in which, said defendant, on his and

on behalf of other defendants, has stated that the memorandum of family settlement, i.e. Annexures P-1 and P-2, as are appended with the application

filed under Order 23, Rule 3 of the Code of Civil Procedure, have been entered into by the parties out of their free will and volition and they have no

objection, in case, the civil suit as well as Counter Claim are disposed of/decreed in terms thereof.

4. At this stage, it is relevant to mention that as defendant No. 1 died during the pendency of the civil suit, therefore, name of said defendant was

ordered to be deleted in terms of order dated 31.10.2019.

5 Having heard learned Senior Counsel appearing for the parties and taking into consideration the averments as are contained in the application as well

as Annexures appended with the application and further taking into consideration the statements which have been made by plaintiffs No. 1, 2 and

defendant No. 2, the suit and counter claim are ordered to be disposed of/decreed in terms of the settlement arrived at between the parties, which are

appended with the application as Annexures P-1 and P-2, which shall form part of the decree. Pending miscellaneous application(s), if any, also stand

disposed of accordingly. Court fee be refunded to the parties as per Rules.