

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 181 of 2017

Date of decision: 20.8.2024

Joginder Singh.

...Petitioner.

Versus

State of H.P.

...Respondent.

Corum

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Bipin C. Negi, Judge.

Whether approved for reporting?¹

***For the Petitioner : Mr.B.S. Chauhan, Senior Advocate,
alongwith Mr.Abhishek Thakur, Advocate.***

***For the Respondents: Mr.Anup Rattan, Advocate General,
alongwith Mr.Baldev Negi, Additional
Advocate General.***

Vivek Singh Thakur, Judge (Oral)

Petitioner, in present case, has assailed order dated 24.10.2016, passed by the Divisional Commissioner, in Appeal No. 171 of 2016, titled as Joginder Singh Vs. The Collector-cum-DFO, whereby his eviction from the forest land in Mauja Chillala comprising Khasra Nos. 124, 135, 170, 171, 173, 184, 161 and 154, measuring 3-00-00 hectares, as directed vide order dated 28.3.2016, passed by Collector-cum-Divisional Forest Officer, Rohru, Forest Division Rohru, H.P., in case No. 1679 of 2016, has been affirmed.

¹***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

2. As per eviction order dated 28.3.2016 passed by Divisional Forest Officer, the land encroached by petitioner was identified by the demarcation report of Kanungo and petitioner had confessed the unauthorized occupation on the forest land referred supra and in reply to the notice, he had not denied his unauthorized possession on the land in reference and his claim was that his unauthorized possession has been recorded in the settlement proceedings and, therefore, proceedings for ejectment, if any, are to be initiated by the Settlement Officer.

3. It is apt to record here that similar proceedings were initiated and eviction orders have been passed against Harish, Munish and Rajiv, who are sons of petitioner Joginder Singh. They have preferred CWP Nos. 192, 180 and 179 of 2017.

4. At this stage Mr.B.S. Chauhan, Senior Advocate, under instructions, who is also representing the sons of petitioner, in their respective petitions referred supra, has submitted that sons of petitioner have communicated that Joginder Singh has expired and the land in possession of Joginder Singh, except Khasra Nos. 170 and 171, has already been surrendered to the Department/Government and further that after death of petitioner Joginder Singh, his legal heirs, i.e. his three sons, namely, Harish, Munish and Rajiv, who have preferred above referred Writ Petitions against eviction orders passed against them, are not interested to pursue present petition and, therefore, no steps for substitution of deceased petitioner have either been taken or proposed.

5. In view of above, present petition stands abated and challenge laid to the impugned eviction order passed against Joginder Singh fails.

6. As observed by this Court in its order dated 17.7.2024, passed in CWP No. 1028 of 2002 and connected petitions including present petition, adjudication of CWP No. 1028 of 2002 regarding validity of Section 163(A) of the Himachal Pradesh Land Revenue Act, 1953 and Himachal Pradesh Regulation and Encroachment (in certain cases) of Government Land and Disposal of Government Land Rules, 2002, shall have no impact in the present matter, because in the absence of approval of the Central Government or for want of pendency of any request for such approval of the Central Government, the forest land cannot be put to a use, which is a non-forest purpose, as also has been defined and explained in Section 2 of Forest Conservation Act, 1980, clarifying that breaking up or clearing of any forest land or portion thereof for the cultivation of tea, coffee, spices, rubber, palms, oil bearing plants, horticulture crops or medical plants and even any purpose other than reafforestation, shall amount to using such land for non-forest purpose.

7. After going through the record, impugned order and averments made in the petition and also considering the submissions made by learned counsel who was representing the petitioner, we do not find any merit in the petition and accordingly the same is dismissed being abated as well as for want of prosecution.

8. Consequentially, concerned Revenue Officers, including Tehsildar concerned and Forest Authorities, including DFO concerned, are directed to identify the Government/forest land encroached by the petitioner properly and take possession of the encroached Government/forest land, if not already taken, by fixing permanent boundary marks of the Government land on or before **30th September, 2024** and compliance affidavit with respect to taking of possession on the spot, be filed by the concerned Divisional Forest Officer on or before **15th October, 2024**.

9. The concerned authorities are also directed to remove other encroachment(s) from the Government/Forest land detected/found on the spot during demarcation/identification of the land in reference by taking appropriate action in accordance with law in time bound manner, to the maximum within six months from the date on which such encroachment is found/detected.

10. Improvements/structures, if any, made on the encroached land shall vest in the State of Himachal Pradesh/Department and shall be utilized by the State/Department for its use. In case LR's of deceased petitioner intend to take away the fixtures/building material/debris for their own use, they may opt for that in writing, but in that eventuality they shall take away the material of the structure before **15th November, 2024** at their own cost.

11. Any dereliction in performing compliance of aforesaid direction or laxity to remove encroachment from Government/Forest land shall be taken seriously and consequential adverse action/proceedings shall ensue.
12. Entire aforesaid proceedings shall be video graphed and copy of videography be placed on record with affidavit.
13. Learned Advocate General is directed to bring this order in the notice of the Chief Secretary to the Government of Himachal Pradesh, for ensuring timely compliance.

The petition is disposed of, so also pending application(s), if any, in aforesaid terms.

List for compliance on **16th October, 2024.**

**(Vivek Singh Thakur),
Judge.**

**(Bipin C. Negi),
Judge.**

20th August, 2024
(Keshav)