IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1989 of 2017

Date of decision: 30.7.2024

Dharam Singh. **…Petitioner.**

Versus

State of H.P. & Others. **…Respondents.**

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.Karan Singh Kanwar, Advocate.***

For the Respondents: ***Mr.Anup Rattan, Advocate General, alongwith Mr.Varun Chandel, Additional Advocate General.***

Vivek Singh Thakur, Judge (Oral)

Petitioner, in present case, has assailed order dated 31.5.2017, passed by the Divisional Commissioner, in Appeal No. 647 of 2016, titled as Dharam Singh Vs. State of H.P. through Range Forest Officer, whereby his eviction from the forest land in R.F. Ghaton comprising Khasra No. 313/1, measuring 06-16 bighas of Mauza Kajwa Tehsil Sangrah, District Sirmour, H.P., as directed vide order dated 31.8.2016, passed by Collector-cum-Assistant Conservator of Forest, Renuka Ji, District Sirmour, H.P., in case No. 30/SG/2015-16, has been affirmed.

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

2. In response to the notice served upon the petitioner, petitioner had appeared before the Collector and deposed on 18.3.2016, admitting the encroachment on the aforesaid forest land, but had refused to vacate the encroachment. The aforesaid deposition has been reproduced by the Divisional Commissioner in his order, wherein petitioner had admitted that he has encroached upon the above referred forest land with submission that he had no documents to prove his ownership on the land and he would abide by the decision of the Court.

3. In the aforesaid facts and circumstances, though plea of adverse possession has been taken in the reply to notice, but petitioner had neither led any evidence to substantiate the said claim nor has initiated any action or proceedings for establishing his right of ownership by way of adverse possession.

4. 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.

5. After going through the record, impugned order and averments made in the petition and also considering the submissions made by learned counsel for the petitioner, we do not find any merit in the petition and accordingly the same is dismissed.

6. 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 by fixing permanent boundary marks of the Government land on or before **16th 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 **30th September, 2024**.

7. 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.

8. 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 petitioner/encroacher intends to take away the fixtures/building material/debris for his own use, he may opt for that in writing, but in that eventuality he shall take away the material of the structure before 15th November, 2024 at his own cost.

9. 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.

10. Entire aforesaid proceedings shall be video graphed and copy of videography be placed on record with affidavit.

11. 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 **30th September, 2024**.

(Vivek Singh Thakur),
Judge.

(Bipin C. Negi),
Judge.

30th July, 2024
(Keshav)