

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

LPA No. 72 of 2013
Decided on : 22.08.2026

Shrimati Satya Chauhan

...Appellant

Versus

Shri Tulsi Ram and others

...Respondents

Coram

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Bipin C. Negi, Judge.

Whether approved for reporting?¹

For the appellant : Mr. Aman Sood, Advocate.

For the respondents : Mr. Mohinder Verma, Advocate, for respondents No.1, 2(i) to 2(iii), 3(i) to 3(vii), 4 to 11(ii).

Ms. Priyanka Chauhan, Deputy Advocate General, for respondent No.12.

G.S. Sandhawalia, Chief Justice (Oral)

The appellant seek consideration of the judgment passed by the learned Single Judge, in **Civil Writ Petition No. 90 of 2006-I**, titled **Smt. Satya Chauhan Vs. Shri Tulsi Ram and others**, dated 22.11.2012, whereby the learned Single Judge had dismissed the petition.

2. The learned Single Judge keeping in mind the demarcation, which had been done in pursuance to the order passed on 02.05.2012 by him, came to the conclusion that there

¹ Whether reporters of the local papers may be allowed to see the judgment?

was an encroachment upon the government land, as the spot had been inspected from 07.08.2012 to 09.08.2012. The report of the Settlement Officer, Shimla, dated 21.08.2012 was accordingly taken into consideration, wherein, the conclusion had been arrived towards that the demarcated land was in the middle of the government land and the structure belonging to the present appellant fell in new Khasra No. 1062, which was government land abutting to the disputed structure and the road was passing through Khasra No. 1132 (new), which was also government land. Thus, the learned Single Judge came to the conclusion that there was an encroachment upon the government land and measurement had been taken strictly as per the norms prescribed and the fact that the petitioner had already moved an application seeking regularization of the land encroached by her, established the fact of the encroachment. Resultantly, it was held that there was no merit in the petition and the same was dismissed.

3. It is pertinent to notice that on 27.06.2024, the Coordinate Bench while taking into consideration the arguments raised by the appellant, had directed that a fresh measurement be done of the appellant's land in Khasra No. 685/347 (corresponding new Khasra Nos. 1062/1 and 1062/2) vis-a-vis the government land in new Khasra No. 1062 in order to

determine whether the appellant had actually encroached upon the government land.

4. The Settlement Officer thereafter vide his report, which has now been placed on record, had constituted a Committee on 06.09.2024, to conduct a demarcation. The Committee Members i.e. Naib Tehsildar, two Kanungos and two Patwaris, all from the Settlement Correction Cell, had visited the site on 16.09.2024. After fixing the permanent points, the measurement identification was accordingly done and eventually, the same conclusion came forth that the present appellant had illegally and unauthorizedly occupied the government land. The conclusion reads as under:-

“Conclusion:-

- 1) *To explain the comparison between old and new maps, location of the appellant's co-owned land and government land, the permanent points identified and fixed to demarcate and measure the boundaries and show exact location of the Khasra Nos. 1062/1 & 1062/2, the old Khasra No.348 (Government Land and new khasra numbers carved out of it, which are depicted by Pink colour, the old Khasra No.347 (land co-owned by the appellant) and the new khasra numbers carved out of it, which are depicted by Yellow colour and the Khasra Nos. 1062/1 & 1062/2 carved within new Khasra No. 1062, which are in illegal occupation of Smt. Satya w/o Rajinder Singh, has been depicted by Blue colour.*
- 2) *The relevant revenue record, the demarcation proceedings and the outcome thereof conclusively establishes that Smt. Satya Chauhan, the appellant had*

purchased land upto 1/71 shares (0-4 bigha) in the old Khasra No. 347 (14-4 bigha). The new Khasra Nos. 1072, 1090, 1093, 1108, 1124/1, 1133, 1135, 1067, 1069, 1130, 1129, 1065, 1096, 1109, 1064, 1070, 1126 & 1095 Kita 18 measuring 1-05-40 hectare have been carved out in latest settlement from the old Khasra No. 685/347. The land included in carved Khasra Nos. 1062/1 & 1062/2 are located within and are the part of new Khasra No. 1062 only. Smt. Satya, the appellant has illegally and unauthorizedly occupied this part of land. In fact it is located in the middle of the government land. As a result, it can be safely concluded that the disputed piece of land (new Khasra Nos. 1062/1, 1062/2) is part of and within the limits of the old Khasra No. 592/348 (new Khasra No. 1062), which is recorded under the ownership of Government of HP. This part has been encroached upon by the appellant i.e. Smt. Satya Chauhan. (Copy of old and new field map is also enclosed with the report)."

5. The said report was objected to by filing objections dated 26.11.2025, filed on 28.11.2025 and which were further replied by the private respondents, by stating that the house was constructed by the appellant herein over 4 biswas of land and the fact had already been noticed by the Financial Commissioner (Appeals), in his order dated 18.07.2005 and in concluding para of the judgment by the learned Single Judge, while dismissing the writ petition on 22.11.2012.

6. On 20.06.2026, keeping in view all the cumulative material on the record, we had passed the following order:-

"During the course of the proceedings, it transpired that the petitioner had purchased 04 biswas of land situated

in Khasra No.347/2/1, on 24.05.1995. Apparently, construction of house raised by the appellant was found not to be on the said area. Resultantly, ejectment order was passed on 16.06.1999 by the Assistant Collector. The same was set aside on 31.03.2000 and the matter was remanded by the Collector (Settlement).

Instead of contesting the matter, the present appellant filed an application for correction of the revenue record, which was allowed on 22.01.2004 by the Collector (Settlement) by relying upon the report of the Tehsildar and by keeping in view the fact that the house loan of Rs.2.20 lac had been taken up for the construction of the house and a two storeyed house has been constructed. Ownership of the petitioner from Khasra No.1126 was deleted and entered into the ownership of the Government, as per Naksha Tafawat. The said order was upheld in appeal, on 07.06.2004 by the Divisional Commissioner, Shimla by coming to the conclusion that the area of the present appellant had not been increased by the order of the Collector. The Collector (Settlement) had passed the order for correction on the basis of the report of the demarcation.

The Financial Commissioner, vide order, which is the basic order impugned now, dated 18.07.2005 had come to the conclusion that once the application itself had been filed by the appellant, as such for regularization of the encroachment under the policy framed by the State Government, the correction could not have been done, as the said Officer did not have the jurisdiction. Resultantly, the orders were set aside and liberty was given for regularization of Khasra No.1062/1 measuring 0- 00-61 Hectares by the competent authority.

In such circumstances, the writ petition filed was dismissed by relying upon the demarcation report. We are thus of the considered view that the relief to be granted to the appellant, is as to whether the encroached government land can be exchanged with the land owned by the

appellant, as the encroachment made by the appellant is stated to be 02 biswas on government land, out of the 04 biswas purchased.

Faced with the aforesaid situation, learned counsels for the parties seek time to address arguments qua the possibility of an exchange of land owned by the appellant with the land owned by the government, so that appropriate order can be passed so that the interests of both the sides do not suffer."

7. The State had shown its difficulty as such, to comply with the same on account of the fact that there was no vested right in favour of the encroacher to seek exchange or regularization of government land because he owned adjoining land or had raised construction thereon. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, did not confer any right upon a person to claim or exchange of government land with the private land.

8. As has been noticed by us above, that though the appellant might had purchased 4 biswas of land situated in Khasra No. 347/2/1 on 24.05.1995, but as a matter of record, it had been found that the construction was not on the said portion and by virtue of two demarcation reports as such. Firstly, one demarcation was got done vide order dated 02.05.2012 of the learned Single Judge, which was conducted in the month of August, 2012 and the report was also given in the said month. The factual matrix had been clarified that the construction, which

had been raised, was upon the government land. The second demarcation had been done pursuant to the order dated 27.06.2024, passed by the Coordinate Bench, which shows that the appellant had though purchased the land in dispute as such but the location of the construction had been found on the government land.

9. In such circumstances, keeping in view the fact that there is an admission regarding the factum of regularization having been sought and ejectment order had been passed on 16.06.1999, which had been set aside on 31.03.2000 and the matter had been remanded to the Collector Settlement. The appellant then had chosen a different route as such, for correction of the revenue record, which had been wrongly done. Accordingly, solely on the ground that there was a house loan and construction had been raised on the portion of the land, the Collector had given the benefit of land which belonged to the government and the said order had then been corrected by the Financial Commissioner vide order dated 18.07.2005.

10. In such circumstances, we are of the considered opinion that there was no legal lacuna as such, in the proceedings, which had been upheld by the learned Single Judge and in view of the subsequent demarcation report also, which has come against the present appellant, we are not in a position to

take a different view from the order passed by the Financial Commissioner, duly upheld by the learned Single Judge, in the peculiar facts of the case.

11. Accordingly, the present appeal is dismissed. Pending miscellaneous application(s), if any, also stands disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

August 22, 2026
(Shivank Thakur)