

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.113 of 2018
Decided on : 11.09.2026

Surinder Kumar @ Arjun and ors. ...Petitioners

Versus

State of HP and Anr. ...Respondents.

Coram

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

Whether approved for reporting?¹

For the petitioners : Mr. Mohender Verma and Mr. Sumit Sharma, Advocates.

For the respondent(s) : Mr. Shelebh Thakur, Assistant Advocate General.

Bipin Chander Negi, Judge (Oral)

The present petition has been filed seeking the following reliefs:-

i) That appropriate orders and directions may be passed in favour of the petitioners and against the Respondents directing them to pass necessary orders for returning back the land in question in favour of the petitioners from whom the land in question was acquired so that the petitioners are able to utilize the same.

ii) Time bound directions may be issued to Respondents so that the petitioners are able to utilize the same. All the petitioners are senior citizens and

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

therefore, this petition deserves to be considered on priority basis."

2. The admitted position, in the case at hand, is that the award, in the case at hand, was passed by the Land Acquisition Collector, Shimla on 08.10.1973. The petitioners had been paid prevailing market value of land and the entire land had been put to the use for construction of a residential colony by the respondents. The clear and categorical stand of the respondents in this regard is evident from the affidavit filed in pursuance to the order dated 07.11.2022. The relevant extract whereof reads as under:

"2. That in compliance to the above directions passed by the Hon'ble Court, it is humbly submitted on behalf of the respondents that the land comprised in Khasra number 597 and 598 situated in Mauja Shiv Nagar, Shimla Rural, Distt. Shimla was acquired by the respondents-State for the purpose of construction of residential colony. The award in this regard was passed by Land Acquisition Collector, Shimla on 08.10.1973. The petitioners were paid prevailing the market value of the land at that time. The amount of Rs.2,14,161.72 was paid as compensation in respect of acquired land. Thereafter, the entire land was put to use for the purpose of construction of residential colony by the respondents. The respondents have constructed Type-4 residential quarter for the purpose of use of Govt. servants over the acquired land and there are 5 residential blocks. The said residential quarters have been constructed in accordance with rules and regulations for the construction and land has also been used for parking,

path tanks, roads and for leaving of setback, green areas etc. over the land and entire land is in use of the respondents. There is no question of having any vacant land on the spot. Even, if some vacant land is available on the spot, the same is required by the respondents for construction of additional accommodation as per local municipal by laws. It is again submitted that the latest status of the land is the same as mentioned in the reply which stands submitted by this department to the CWP in the Hon'ble Court."

3. It is a well settled position of law that once an award had been passed and possession had been taken over, the land vests with the government free from all encumbrances and even if the land is not used for the purpose, for which it is acquired, the land owner does not get any right to ask for revesting the land in him. In this respect, it would be appropriate to refer to the authoritative pronouncement of the Hon'ble Apex Court rendered in ***Northern Indian Glass Industries v. Jaswant Singh and others, (2003) 1 SCC 335***. The relevant extract whereof reads as follow:

"9. Looking to the facts of the present case and conduct of the respondents 1-5, the High Court was not at all justified in ignoring the delay and laches and granting relief to them. As already noticed, the respondent 1-5 approached the High Court by filing writ petition almost after a period of 17 years finalization of the acquisition proceedings. They accepted the compensation amount as per the award

and sought for enhancement of the compensation amount without challenging the notification issued under [Section 4](#) and [6](#). Having sought for enhancement of compensation only, they filed writ petition even three years after the appeals were disposed of by the High Court in the matter of enhancement of compensation. There is no explanation whatsoever for the inordinate delay in filing the writ petitions. Merely because full enhanced compensation amount was not paid to the respondents, that itself was not a ground to condone the delay and laches, in filing the writ petition. In our view, the High Court was also not right in ordering restoration of land to the respondents on the ground that the land acquired was not used for which it had been acquired. It is well-settled position in law that after passing the award and taking possession under [Section 16](#) of the Act, the acquired land vests with the Government free from all encumbrances. Even if the land is not used for the purpose for which it is acquired, the land owner does not get any right to ask for revesting the land in him and to ask for restitution of the possession. This Court as early as in 1976 in [Gulam Mustafa and Ors., v. The State of Maharashtra and Ors.](#), [1976] 1 SCC 800 in para 5 has stated thus:-

"5. At this stage Shri Deshpande complained that actually the municipal committee had sold away the excess land marking them out into separate plots for a housing colony. Apart from the fact that a housing colony is a public necessity, once the original acquisition is valid and title has vested in the municipality, how it uses the excess land is no concern of the

original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long after the requiring authority diverts it to a public purpose other than the one stated in the [Section 6\(3\)](#) declaration."

10. In Chandraguda Ramgonda Patil and Anr. v. State of Maharashtra and Ors., [1996] 6 SCC 405, it is stated that the acquired land remaining unutilized was not intended, to be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of notification.

11. Yet again in C. Padma and Ors., v. Dy. Secretary to the Government of T.N. and Ors., [1997] 2 SCC 627, it is held that acquired land having vested in the State and the compensation having been paid to the claimant, he was not entitled to restitution of possession on the ground that either original public purpose had ceased to be in operation or the land could not be used for other purpose."

4. In the aforesaid settled position of law, the present petition is dismissed, being devoid of any merit, so also the pending miscellaneous application(s), if any.

(Bipin Chander Negi)
Judge

11th September, 2026
(Gaurav Rawat)

