

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.11000 of 2023

Date of Decision: 15.09.2026

Sh. Mehar Chand & others

.....Petitioners

Versus

Himachal Pradesh Financial Commissioner & others ... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner: Mr. Vinod K. Soni and Mr. Tanuj Thakur, Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocate Generals with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the respondent-State.

Mr. C.N. Singh, Advocate with Mr. Jagatnarayan Singh and Mr. Anshul Gandhi, Advocate, for respondents No.3 and 4.

Sandeep Sharma, Judge(oral):

Being aggrieved and dissatisfied with order dated 05.04.2023 passed by the Financial Commissioner (Appeals), Himachal Pradesh at Shimla, in Revision Petition No. 3 of 2012 (Annexure P-4), reversing order dated 01.12.2011 passed by the Divisional Commissioner, Kangra in case No. 223 of 2007, whereby order dated 18.03.1998 passed by Collector (ADM) Kangra at

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

Dharamshala, Himachal Pradesh, in Appeal No. 40 /97 was set aside, petitioners have approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for following main reliefs:-

- “ (i) That the impugned order dated 5.4.2023(Annexure P-4) passed by the learned Financial Commissioner, may kindly be quashed and set aside in the interest of justice and fair play;***
- (ii) That the order dated 1.12.2011 (Annexure P-3) passed by the learned Divisional Commissioner may kindly be upheld.”***

2. For having bird's-eye view, facts essential for the adjudication of the case at hand, as emerge from the pleadings adduced on record by the respective parties, are that Sh. Kuldeep Chand, predecessor-in-interest of respondent No. 4, submitted an application dated 29.07.1993 before learned Land Reforms Officer (for short 'LRO'), Palampur, District Kangra, averring therein that he had filed LR-V on 06.12.1975, but same was misplaced from the Tehsil Office, Palampur and as such, he be permitted to file LR-V form afresh. The Land Reforms Officer decided the LR-V form vide order dated 04.03.1995 passed in Case No. 91/LR, by allowing aforesaid Kuldeep Chand to resume 0-74-60 hectares of land from various tenants in three *Mohals* i.e., predecessor-in-interest of the petitioners herein, whereas qua rest of the land under tenants, ownership rights were also conferred on such tenants.

3. Being aggrieved with aforesaid order dated 04.03.1995 passed by Land Reforms Officer, predecessor-in-interest of the petitioners preferred an appeal before learned Collector (ADM) Kangra at Dharamshala (**hereinafter referred to as the 'Collector'**), taking grounds that predecessor-in-interest of respondent No. 4 is already having more land than the limit prescribed under Section 104 and as such, is not entitled to resume any land from the tenants. It also came to be stated at the behest of predecessor-in-interest of the petitioners that respondent No. 4 suppressed facts, while filing LR-V form and he has not disclosed that he is having land in Nagrota Tehsil also. However, learned Collector, after having heard parties and perused case file, dismissed the appeal vide order dated 18.03.1998.

4. Being dissatisfied with the aforesaid order dated 18.03.1998 passed by learned Collector, in Appeal No.40/97, petitioners herein preferred an appeal before learned Commissioner, bearing Appeal No. 168 of 1998. Learned Commissioner, accepted the appeal, vide order dated 01.12.2011, observing that the record of filing the LR-V form in the year 1975 was not available on file and it was not clear whether the LR-V form was actually filed by the respondents in the year 1975 or not. Besides above, afore Authority further observed that since the date of filing of LR-V form is vital for the adjudication of the matter, finding on this issue is required to be

given by the LRO. In the aforesaid background, predecessor-in-interest of respondent No. 4 filed Revision Petition No. 3 of 2012 before the Financial Commissioner (Appeals), Himachal Pradesh, which came to be allowed vide order dated 05.04.2023 (Annexure P-4). Learned Financial Commissioner, while accepting the revision petition, set aside the order dated 01.12.2011, as a consequence thereof, order dated 18.03.1998 passed by Learned Collector (ADM) Kangra at Dharamshala in Revision No. 40/97 came to be upheld. In the aforesaid background, petitioners herein have approached this Court in the instant proceedings, praying therein to dismiss the petition and restore order dated 01-12-2011 passed by learned Divisional Commissioner, Kangra at Dharamshala in Case No. 223 of 2007.

5. I have heard learned counsel for the parties and gone through the record of the case carefully.

6. Precisely, the grouse of the petitioners, as has been highlighted in the petition and further canvassed by Mr. Vinod Kumar Soni and Mr. Tanuj Thakur, Advocates, representing the petitioners, is that learned Financial Commissioner, while passing impugned order, failed to take note of the fact that no record whatsoever ever came to be produced with regard to filing of LR-V form for resumption of land from the tenants, if any, at the behest of the petitioner on

06-12-1975. Learned counsel for the petitioners submitted that since there was no record with regard to filing of LR-V on 06-12-1975, coupled with the fact that there is a tampering of date on the receipt allegedly issued to predecessor-in-interest of the petitioners in the year 1975, there was no occasion, if any, for learned Financial Commissioner to upset the findings of the Commissioner, which are based upon proper appreciation of record as well as evidence adduced on record by the respective parties. Learned counsel representing the petitioners further submitted that though LR-V form is available on the record produced before this Court, but same cannot be said to have been submitted in the year 1975, rather such document came to be adduced on record by private respondent No. 4 alongwith his application filed on 29-07-1993. Lastly, learned counsel representing the petitioners further argued that even if it is presumed that LR-V form was submitted by the predecessor-in-interest of respondent No. 4 in the year 1975, no plausible explanation worth credence ever came to be adduced on record qua delay of 18 years in filing application in the year, 1993 seeking permission to file fresh LR-V Form. Learned counsel for the petitioners submitted that on account of delay, which never came to be explained, application filed by the predecessor-in-interest of the private respondent ought to have been rejected.

7. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General representing the respondent-State and Mr. C.N.Singh, Advocate, representing the private respondents, supported the impugned order passed by Financial Commissioner. They submitted that plea of limitation, as is being sought to be raised in the instant petition, never came to be raised at the behest of the petitioners during the pendency of proceedings before the Collector, Divisional Commissioner and thereafter before the Financial Commissioner and as such, same deserves outright rejection. Learned counsel representing the respondents further argued that bare perusal of the record made available to this Court, clearly reveals that predecessor-in-interest of the private respondent had submitted LR-V form on 29-12-1975, which at the relevant time was endorsed by the concerned Patwari. Thus, no illegality can be said to have been committed by the Financial Commissioner, while setting aside the order dated 01-12-2011 passed by learned Divisional Commissioner.

8. Having heard learned counsel representing the parties and perused material available on record vis-à-vis reasoning assigned in the impugned order dated 05-04-2023 passed by learned Financial Commissioner (Appeals), this Court finds no illegality or infirmity in the same and as such, no interference is called for.

9. In the case at hand, predecessor-in-interest of the private respondent filed an application dated 29-07-1993 before the Land Reform Officer, Palampur, specifically stating therein that he had filed LR-V form on 06-12-1975, but due to some unavoidable circumstances, said LR-V form was misplaced by the Tehsil office and as such, he be permitted to file fresh LR-V form. The then Land Reforms Officer, after perusing the record, decided the form LR-V of the present petitioners vide order dated 04-03-1995, passed in Case No. 91/LR and permitted the predecessor-in-interest of the private respondent to resume 0-74-60 hectares of land from various tenants in three mohals. If the afore order passed by Land Reforms Officer, as available on record file, is perused in its entirety, it clearly suggests that aforesaid authority before passing aforesaid order examined the entire record(available at pages No. 7 to 26 of the file made available to this Court). Since the predecessor-in-interest of the private respondent had appended a photocopy of the receipt of form LR-V in the shape of form LR-VI containing signature of Land Reforms Officer along with the date 06/12, Land Reforms Officer, after verifying this record, proceeded to permit the predecessor-in-interest of the private respondent to resume the land. After passing of aforesaid order by the Land Reforms Officer, the matter came to be examined by Learned Collector (ADM) Kangra at Dharamshala. The aforesaid authority

again examined the record and proceeded to dismiss the appeal. However, learned Collector in Appeal No. 40 of 1997 filed by the predecessor-in-interest of the petitioners, set aside the order dated 04-03-1995 on the ground that record of filing the LR-V form in the year 1975 was not available in the file and it is not clear as to whether LR-V form was actually filed by the respondent in the year 1975 or not.

10. True it is that at the time of making application at the behest of the predecessor-in-interest of the private respondent, LR-V form, if any, submitted was not available that's why predecessor-in-interest of the respondent sought permission from the Land Reforms Officer, to file fresh application. However, while doing so, he made available certain documents suggestive of the fact that he has submitted LR-V in the year 1975 and he also produced on record receipt issued on form LR-VI, having date 06/12. Since aforesaid documents adduced on record by predecessor-in-interest of private respondent had signatures of the then Land Reforms Officer and same were also verified by the Patwari concerned on 29-11-1975, no illegality can be said to have been committed by the Collector (Additional District Magistrate) Kangra inasmuch as he proceeded to uphold the order dated 04-03-1995 passed by Land Reforms Officer, in case No.91/LR. Since predecessor-in-interest of the private

respondent successfully established before the authorities below that application for resumption was filed well within limitation, coupled with the fact that it was also established on record that LR-V form for resumption was filed in the year 1975, no illegality can be said to have been committed by the Land Reforms Officer, in permitting the petitioners to resume the land.

11. Interestingly, plea of limitation, as is being sought to be raised in the instant proceedings never came to be raised before the Land Reforms Officer and thereafter Collector and Commissioner. Moreover, this Court is of the view that once predecessor-in-interest of the private respondents is able to establish on record that he had filed the application before 31-12-1975, plea of limitation sought to be raised in the instant proceedings is of no consequence. It is not the case of the petitioners that in the year 1993, the revenue authorities permitted the predecessor-in-interest of the private respondent to file fresh Form LR-V seeking their permission to resume the land, rather it is the admitted case of the parties that in 1993, predecessor-in-interest of the private respondent filed an application, specifically stating therein that though he had filed LR-V Form in the year 1975 (on 29-12-1975), but same has been misplaced and as such, he may be permitted to file fresh one. The Land Reforms Officer, after verifying the records, found the claim of the predecessor of the

respondent to be genuine and as such, permitted him to resume the land.

12. In the case at hand, predecessor-in-interest of the private respondent had attached a photocopy of receipt of Form LR-V in the shape of LR-VI Form, on which the signature of the Land Reforms Officer stood appended along with the date. The record of the trial court shows that Form LR-V of the present petitioner was duly verified by the Patwari concerned on 29-11-1975. The record further reveals that Land Reforms Officer had provided a proper opportunity of being heard to all the interested parties, but none of the petitioners had ever raised any issue regarding the late filing of the LR-V form.

13. Interestingly, in the first appeal filed before the learned Collector, though the predecessor-in-interest of the petitioners attempted to set up a case that present petitioners had wrongly set up Form LR-V in connivance with the revenue staff, but they failed to specifically lay challenge to Form LR-V on the ground of limitation. Section 104 of the Act read with Rule 21 of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, clearly prescribes the period for the submission of application for the resumption of land by landowner other than those mentioned in sub-section (8) of Section 10 up to 31st December 1975. Since, in the case at hand, the predecessor-in-interest of the private respondent was not covered

under the protected category protected under Section 104(8) of the Act, he was bound to file application for the resumption of land from tenants on or before 31st December 1975. In the instant case, record made available to this Court clearly reveals that Form LR-V was duly submitted on 29-11-1975 and same was verified by the Patwari concerned on 29-11-1975. The receipt of Form LR-V in the shape of Form LR-VI clearly shows that the signature of the Land Reform Officer was appended thereupon. Since Form LR-V was submitted well within the period of limitation prescribed under the rules, coupled with the fact that Land Reform Officer, after verifying the records, proceeded to permit the predecessor-in-interest of the private respondents to resume the land, learned Divisional Commissioner, while setting aside the order passed by the Collector was not correct in returning the finding that no record was available.

14. Consequently, in view of the detailed discussion made above, this Court finds no merit in the present petition and accordingly, same is dismissed, as a consequence thereof, the impugned order passed by the Financial Commissioner is upheld. Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),
Judge**

September 15, 2026
(shankar)