(2024:HHC:15770)

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWPIL No. 24 of 2024
Decided on : 23.12.2024

Kuldip Singh Rana . .....Petitioner

Versus

State of H.P. & others ....Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Acting Chief Justice.
The Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?[1] *No*

For the Petitioner: **Mr. Prantap Sharma, Advocate.**

For the Respondents: **Mr. Rakesh Dhaulta, Additional Advocate General with Ms. Priyanka Chauhan, Deputy Advocate General.**

Tarlok Singh Chauhan, Acting Chief Justice (*Oral****)***

Aggrieved by the encroachments alleged to have been made by certain persons in village Dangoli, the petitioner has filed the instant petition for the grant of following substantive reliefs:-

> *"(i) That a writ in the nature of mandamus may kindly be issued to the concerned official respondents to complete the settlement operation of the village Dangoli, District Una, H.P as expeditiously as possible in accordance with law.*
> *(ii) That a further writ in the nature of mandamus may kindly be issued to the official respondents for taking required necessary*

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

steps to give legal effect particularly to the judgment Annexure P-5 passed by this Hon'ble Court against the private respondents.

(iii) That a further writ in the nature of mandamus may kindly be issued to the official respondents to identify the other encroachers and to ensure the removal of all the encroachments and illegal constructions over the Government land comprising in Khasra No.924 raised by the private respondents and other encroachers.

2. The respondents have filed reply and it shall be apt to reproduce para-4 thereof, which reads as under:-

" 4. That in reply to the contents of para no. 4 of the writ petition, it is respectfully submitted that village Dangoli was under settlement process and due to some technical problem to finalize the revenue record, the earlier settlement process was cancelled. It is further submitted that District Una was notified for settlement proceeding by Notification No. Rev.2 (f)- 2/79 dated 22.07.1980 in which whole District Una came under settlement proceedings. In compliance to the above mentioned orders, the settlement proceeding of the village Dangoli started in year 1980 and got completed on 10.07.2000 and thereafter the record was handed over to the revenue agency. Due to the non-availability of old map, the record was finalized on the basis of spot situation and on the basis of area (rakba) entered in the latest Jamabandi.

Then by Government of Himachal Pradesh letter No. Rev.2 (f)-(8)/91 dated 19.07.2002, the settlement proceedings of Mohal Dangoli got cancelled and orders were obtained for resettlement. Copy of same is already annexed with the petition

as annexure P-2. In continuation of the orders, a committee was formed for resettlement of Mohal Dangoli under the chairmanship of Tehsildar Settlement (Barsar) on dated 10.07.2019 (Annexure R-I) which recommends that the measurement (paimaish) of the Mohal Dangoli is correct as per the spot situation and record prepared in 1999-2000, only correction is to be done in Khatoni and Misal Hakiyat. The report of the committee was further forwarded to the Principal Secretary (Revenue) to the Government of Himachal Pradesh through this office letter No. KGS/PB-Misc./2020-1873 dated 11.10.2021 (Annexure R-II) in which the complete situation of Mohal Dangoli was clarified and further Guidelines were awaited from their side.

For the settlement proceedings of Mohal Dangoli further a meeting was conducted by the then Settlement Officer, Kangra on dated 03.05.2023 in which land owners of Mohal Dangoli, Pradhan Gram Panchayat Dangoli, Up-Pradhan Gram Panchayat Dangoli, Members Gram Panchayat Dangoli, Namberdar of Dangoli, the then Assistant Settlement Officer, Division Kangra, Tehsildar Settlement, Naib Tehsildar Settlement and the concerned Kanongo and Patwari were present. The various issues were raised by the land owners 2024 of the Mohal Dangoli in the meeting and the report was sent by the Tehsildar Settlement Barsar vide his to office letter No. ST/Barsar/2023-516 dated 17.05.2023 (Annexure R-III) to Settlement Officer Kangra at Dharamshala in which the conclusion was conducted that there is no need to completely revoke the settlement proceedings of Mohal Dangoli as the spot measurement (paimaish) of the village is up to the mark, only the anomalies in Khatoni and Misal Hakiyat is to be rectified

with the help of Jamabandi year 1976-77 and map (aks) of year 1870.

It is further submitted that a meeting regarding the settlement proceeding of Mohal Dangoli was held on dated 03.02.2024 by the Assistant Settlement Officer Kangra alongwith his staff with the Ld. Principal Secretary (Revenue) to the Government of Himachal Pradesh in which some clarification regarding the settlement proceeding in Mohal Dangoli was discussed and the report was send with office letter No. KGS/PB /UNA/11(ii)/ 2024-3586 dated 23.07.2024 (Annexure R-IV) to the Principal Secretary (Revenue) to the Government of Himachal Pradesh for further orders. After settlement proceedings will be started in village, the actual un-authorized encroacher over the government land will be identified and they will be ejected from the government land after following proper procedure of law."

3. It would be evident from the aforesaid paragraph that the settlement proceedings have to be restarted and it is only thereafter that the question of a person being unauthorized encroacher(s) would arise. The respondent-State in fact has undertaken to evict the unauthorized encroacher(s) after he/she is identified and after following the proper procedure.

4. Obviously, in this view of the matter, the instant petition has become infructuous and is disposed of as such. However, disposal of the instant petition would not prevent the petitioner from

resorting to appropriate proceedings even after settlement the alleged encroacher(s), after identification, is still not evicted.

(Tarlok Singh Chauhan)
Acting Chief Justice

(Satyen Vaidya)
Judge

23rd December, 2024
(yogesh/pankaj)